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A
Brief Sketch of the Life
OF
WILLIAM GREEN, LL. D.
JURIST AND SCHOLAR,
WITH SOME
PERSONAL REMINISCENCES
OF HIM

By PHILIP SLAUGHTER, D. D.,

Historiographer of the P. E. Church, Diocese of Virginia.

ALSO,
A Historical Tract by Judge Green,
AND SOME
CURIOUS LETTERS UPON THE ORIGIN OF THE
PROVERB, "VOX POPULI, VOX DEI."



RICHMOND:
WM. ELLIS JONES, BOOK AND JOB PRINTER.
1883.

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DEDICATION.

TO THE DESCENDANTS OF PHILIP AND ANNE
(COLEMAN) CLAYTON,

Who, under the names of Clayton, Green, Williams, Pendleton, Strother, Slaughter, and many others in which they have been merged by marriage, are scattered abroad from Massachusetts to Mexico,* and from Virginia to California, this Tribute, to the memory of the most learned man of all our Tribe, is respectfully dedicated, by their kinsman,

THE AUTHOR.

*This is literally true. Major-General E. O. Ord, U. S. A., now of the city of Mexico, married one of them, as did also the Mexican General Trevino, commanding the department of Monterey. Colonel Frank Thompson, of Monterey, is also of the same descent.

"Inter alios Jurisperitos Julius Clarus vir multis certe nominibus insignis, sive generosos Natales; sive eruditionem plane raram, sive dexteritatem, denique in his quae tractanda sibi sumit felicissiman spectemus, facile Princeps sit."—*Fichards Epistola Dedicatoria operum Julii Clari.*

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P R E F A C E.

The reasons which moved the Author to write and print this memorial are given on another page. In justice to the writer, the reader should bear in mind that these "Reminiscences" do not aspire to the dignity of a Biography.

The latter is a full length picture of its subject, as large as life; perhaps it is more like a Statue than a Portrait. While the latter can only give a front view, or a profile of the person, a statue presents a whole round man. Hiram Powers, the famed American Sculptor (who had hitherto only made busts of Washington), wrote from Italy to the present writer to have photographs of Houdon's Statue of Washington, in the Capitol at Richmond, taken for him. He wanted three views—a front view, a side view, and a back view—to aid his conception of the whole figure. This was when he was meditating a full length Statue* of the great Patriot, whose head (by the way) he said, surpassed those of the great Greek and Roman heroes. The Biographer looks at his subject on all sides, and man, as the Germans say, is a many sided being. But he is more than a Statue. The

*This Statue was made by Powers for the State of Louisiana. It was taken away by General Butler during the war, but afterwards returned. It has since been accidentally destroyed by fire.

latter has eyes, but it cannot see; ears, but it cannot hear; a mouth, but it cannot speak; limbs, but it cannot move. Some Artists have the faculty of so fashioning their subjects as to give such an expression as though they could almost speak. But this expression is but a reflection of the Artist's own genius, projected into the work of his hands. The Ancients report the Statue of Memnon as emitting sounds when stricken by the rays of the morning sun—a beautiful thought, not now deemed altogether fabulous. Some modern travellers have noticed like phenomena in rocks in the East, under the sun's rays.* But no modern sun has ever evoked a voice from cold marble statues. They all remain deaf, dumb and blind, and without sensation. But the subject of the Biographer, sees and hears, and feels and speaks, and acts. He has not only sensations, but intelligence, which receives ideas from the outer world through those windows of the soul, the senses, and faculties which remember, analyze, combine them into new forms, and draw conclusions from them.

He has an emotional nature which feels the force of them, and a will which decides between the clamors of passions and appetites, the dictates of reason, and the warnings of Conscience—that organ of communication between man and his Maker, which has been beautifully called by a French philosopher, “that

* Humboldt speaks of it, and ascribes it to the escape of rarified air through their fissures.

mysterious Star which rises on the borders of two worlds," and which, I add, receives light from the "Sempiternal source of Light Divine," and reflects it upon the world within us. Such is man, endowed with faculties which drag him down to earth, and with other faculties which aspire to Heaven—a being fearfully and wonderfully made, having two natures in one person, one material, (including the merely animal,) and the other spiritual, whose perpetual struggles with each other make up the drama of every life. The subject of the Biographer is the character and career of this many sided, complex and incongruous being. These Reminiscences make no such ambitious pretensions. Their humble office is to make a small contribution towards a Biography—of a few glimpses into the inner life of the subject, of some of the lesser lineaments, which are not visible, but to such as come near the object in the confidence of private friendship.

The Author therefore rather invokes charity, than challenges criticism.

A BRIEF SKETCH

OF THE

LIFE OF WILLIAM GREEN.

The Hon. WILLIAM GREEN, LL.D., descended from William Green, of His Majesty's (King William III) Body Guard. The writer lately found in his Library an old book entitled "The Present State of England," and in it he found a census of all the officers of the Court and Government, civil and ecclesiastical, of the year 1693-4. Among them are one hundred members of the King's Body Guard, in daily waiting, commanded by Charles, Earl of Manchester.

They were required to be men of the best quality, and not less than six feet high. They wore scarlet coats to the knee, and scarlet breeches richly guarded with black velvet, broad crowned caps with velvet bands, and with ribbons of the King's color. In this list is the name of *William Green*. Robert, born 1695, son of this William, aforesaid, migrated to Virginia about 1717, and with his uncle William Duff, a Quaker, settled in what is now King George County. They became partners of Joist Hite and Robert McKay, who had warrants (1731) for locating 140,000

acres of land. Hence the firm of Hite, McKay, Green & Duff.

In 1736, Lord Fairfax entered a caveat against Hite, alleging that these lands were within the Northern Neck, and hence his property. This led to the suit of Hite & Co. against Fairfax, which was not decided until 1786, when all the parties to it were dead. Hite and partners recovered a large sum of money and large tracts of land.

William Duff left his interest in the lands to his nephew Robert¹ Green, (who had married Eleanor Dunn, of Scotland), and settled in Culpeper County, near Brandy Station, on the Midland Railroad. They had seven sons:

- i. William,² who married Miss Coleman, of Caroline. He died in Culpeper, leaving eight children.
- ii. Robert,² married Patty Ball, of Northumberland, and left five children.
- iii. Duff,² married, first, Miss Thomas, and, second, Anne, daughter of Major Henry Willis, of Fredericksburg.
- iv. The gallant Colonel John³ Green, distinguished at Brandywine, Monmouth and Guilford, married Susanna Blackwell.
- v. Nicholas.²
- vi. James.²
- vii. Moses.²

This sketch is limited to the line of Colonel John Green. The descendants of his brothers may be seen in the History of St. Mark's Parish.

Colonel John² and Susanna (Blackwell) Green had issue:

William,³ who married Lucy, daughter of William and Lucy (Clayton) Williams. Issue:

John Williams,⁴ born November 9, 1781; died February 4, 1834. Served gallantly in the War of 1812, and so distinguished himself at the Bar that he was soon made Chancellor, and afterwards was promoted to the Bench of the Supreme Court of Appeals. He married, first, December 24, 1805, Mary Brown, and had issue:

- i. *William*,⁵ the subject of this Memoir, born at Fredericksburg, November 10, 1806.
- ii. Raleigh Brown,⁵ born March 3, 1808; died June 9, 1841, in Texas.
- iii. Daniel Smith,⁵ born February 29, 1812 Surgeon United States and Confederate States armies.
- iv. Philip,⁵ born 1814; died 1815.

Judge John Williams Green⁴ married, second, Million Cooke, a grand-daughter of George Mason (Author of "The Virginia Bill of Rights"). Issue:

- v. John Cooke,⁵ born September 18, 1818; for 20 years Commonwealth's Attorney of Culpeper.

- vi. Thomas Claiborne,⁵ born November 3, 1820.
President of the Court of Appeals, West Virginia.
- vii. George Mason,⁵ born August 27, 1822.
- viii. James Williams,⁵ born March 7, 1824. Major
Confederate States Army; a leading member
of the Bar of Culpeper.

William Green was a hard student from his earliest boyhood. With the exception of brief terms in the schools of Mr. Goolrick, in Fredericksburg, and of Mr. John Lewis,* a famed teacher in Spotsylvania, and the occasional aid of his father in his vacations, he was self-taught. Judge Christian, in the *Law*

*The school of John Lewis, famous in its time, was called "Llan-gollen," and was near the North Anna River, not far from Lewis's Store, Spotsylvania County. Among his pupils were the late Attorney General R. Travers Daniel, and Judge William Robertson, of Charlottesville. We learn from the latter that William Green left behind him the reputation of a youth of wonderful aptitude for acquiring knowledge, and of great simplicity of character. Mr. Lewis spoke of him as one of his boys who would certainly become distinguished. Mr. Lewis had been a Lawyer, and had Law students. He taught English, Mathematics and Latin. Students in Greek took lessons from Mr. Boggs, a neighboring Episcopal minister. The chief end of Mr. Lewis's teaching was (says Judge Robertson) to make his pupils understand and appreciate the beauties of thought and expression in the Standard Latin Authors and translate them into pure idiomatic English. He was a man of high sense of honor and of great kindness of disposition. His wife was a sister of Judge Peter Vivian Daniel. We learn from Mr. John M. Forbes that, after Mr. Lewis's removal to Kentucky, he wrote for the *Farmer's Register* interesting articles comparing the blue grass of Kentucky with that of Virginia, and upon other agricultural points.

Journal, as reported by Mr. Brock in the *Standard*,* gives the following account of his habits as a student, as told to him by Mr. Green himself:

“His room was in an office in the yard, some distance from the ‘great house.’ He was very fond of cats; would get up every morning as soon as it was light enough to read, put on his gown and slippers, put a kitten in each gown pocket, get his book and begin pacing the floor and reading. No one called him to his meals until the rest of the family had left the dining-room; the servant knew what he preferred to eat, placed that before him, and he ate it in absolute silence, no one daring to ask him a question. He glanced from his plate to his book, lying open before him, and this was kept open so that he could glance at it even when washing his face and hands. He told the writer he verily believed that for six months at a time he would speak to no human being—entertained and absorbed entirely by his books and his kittens. In after years,” continues Judge Christian, “although always an ardent student, he became more companionable; and we have frequently seen him in his own quaint way, in our judgment, one of the most agreeable and entertaining men that we ever saw. In this opinion we know that many of our brethren who knew him will concur.”

This anecdote reminds us of a great French Law-

* *Richmond Standard*, January 1, 8, 1882.

yer of the Fifteenth Century, William Budæus, accounted the most learned man in France of his day. He regretted the hours he was forced to give to eating and sleep. Even on his wedding day, he stole away from his bride for six hours to hold converse with the mighty dead through his books.*

Budæus used to describe himself by a Greek word, *Automathes* (self-taught). He had been at college, but learned nothing, and came home to study. His words are, *Domum reversus intra paternos parietes clam studere mecum ipse institui.*

Like Mr. Green, he affected the Greek tongue, and loved Homer. Unlike him, he hired a famous scholar to read Homer to him, for which service he gave 500 pieces of gold; but the scholar could not teach him more than he knew before, says one of his panegyrists. Our Mr. Green had no aid but from his father, who might be called his fellow-student, for the father learned the Greek language after his election to the Bench, that he might help his son in his studies. There are now extant in the family "Greek exercises" in the father's handwriting. After qualifying himself for the practice of the Law, he came to the Bar in his twenty-first year, (1827). From the beginning, he was regarded as a prodigy of learning, and

* An anecdote has been told of Budæus, which has also been ascribed to other scholars, that on his servant coming to his study to tell him the house was on fire, he asked, "Why don't you tell your mistress? You know I don't concern with household matters."

an Oracle, to be consulted, not only by clients, but by his seniors at the Bar, and also as *Amicus Curie*. He traversed Judge Field's circuit, embracing the counties of Culpeper, Rappahannock, Orange, and Louisa, with occasional diversions to Richmond and other towns as important causes called him. In his journeys on horseback he used to read by the way, and in his leisure intervals at the court-houses, some Latin or Greek classic.

The present writer once engaged him as associate in the case of a party deceased, and when the estate of the testator was sold, Mr. Green chose for his fee a handy volume copy of Cicero's works, one of which, he could conveniently carry in his pocket when he went to court "*en Cavalier*."

From about 1829, Mr. Green was a contributor to the columns of divers newspapers and magazines. These consisted of political articles, historical essays, topics in general literature, and questions of Law. *The Culpeper Gazette*, then edited by Robert A. Thompson, a member of the Bar, and afterwards a member of Congress from Kanawha, and, finally, United States judge in California, was one of the newspapers in the columns of which he took his first flights, in competition with R. W. Thompson, (late Secretary of the Navy,) Bayard Strobe, James French Strother, Stanton Field, and other young men of the day. *The Southern Literary Messenger* was the receptacle of his literary and historical lucubrations,

and the law journals of his professional articles. If these could be collected in a volume, it would be a curious literary *melange* of things weighty and witty, grave and gay.

But the Muse of the Law was not the only maid he courted. From Law he fell into love, and Love led him into the bonds of Matrimony. He married on the 6th of April, 1837, Columbia E., daughter of Samuel Slaughter, of "Western View," County Culpeper, by his second wife, Virginia, daughter of William Stanard, of "Roxbury," who married Eliza, daughter of Edward Carter, of "Blenheim."

Mr. Green's children were a son and a daughter. The daughter, Elizabeth Travers, married, June, 1861, James Hayes, merchant, of Fredericksburg, and has nine children. Of the son, named for his grandfather, John Williams, we shall have something to say in the sequel.

To free himself from the complications of old business engagements, and have more facilities for pursuing his studies in a more congenial clime, with easy access to public libraries and a higher vantage-ground for the practice of his profession, he moved to Richmond in the fall of 1855.

I shall not attempt to trace his professional career in the courts. The arguments of counsel, however learned and eloquent, as a general rule, expire with the breath that utters them, or only linger in the memory of the audience, "fit but few," that hear.

them ; like what Sir Edward Coke called "auricular opinions." Briefs give no better idea of them than does a skeleton in an anatomical museum, of a human being clothed with flesh and blood, instinct with life, beaming with intelligence, and warmed by emotion.

"Learned as were all his arguments at the Bar," says Mr. Wm. A. Maury, in his elegant tribute to Mr. Green, "his most notable forensic effort was that made in the Court of Appeals in the case of *Moon vs. Stone*, (19th Grattan's Reports,) involving the question whether a party claiming under a devise, took by purchase, or as heir, under the despotic operation of the rule in *Shelly's Case*. It may be doubted whether this argument ever has been rivalled in acumen, nicety of discrimination, fulness and exactness of learning, and fulness and closeness of research. With the ease and confidence of a master, he threads his way through the maze of clashing decisions which have made the labor of acquiring the learning upon the famous rule in *Shelly's Case* almost herculean; now educing order and harmony where minds less acute and less learned had found only hopeless dissonance and confusion, and now laying bare the errors of imposing names, that never before had felt the shock of a criticism so fearless and so thorough. There can be no higher evidence of the merits of this argument than the order of the Court directing its publication in its Reports. It fills 127

pages in the 19th volume of Grattan's Reports, and will always be referred to with pride by the Bar of Virginia."

Mr. Conway Robinson sent a copy of it to England, and it elicited from Mr. Justice Willes and Mr. Baron Bramwell high encomiums; the former saying, "It shows a prodigious amount of industry and well directed ability upon very difficult questions." And the latter said, "It was very remarkable indeed; that any one in America should have made himself capable of it, seems surprising. I am afraid Mr. Green has shown us that all our idols are not gold."

Mr. Conway Robinson published in the seventh volume of his learned work on "Practice," Appendix, page 1099, a letter of his own, favoring Mr. Green's election to the Bench of the Court of Appeals, calling him "that gentleman of wonderfully great learning, to whom Mr. J. W. Wallace has inscribed his volume entitled 'The Reporters.'"

Mr. Green had written some comments upon Mr. Wallace's book, and sent them to the publishers of it. On the next appearance of the work, it was dedicated thus: "To Mr. William Green, of Culpeper County, Va., who, amidst the engrossing interests of a distinguished career at the Bar, has pursued with a success unattained in England, or America, the recondite researches of legal bibliography, the third edition of this work is inscribed, in acknowledgment of that communication in studies which Francis Bacon thought

worthy of being reckoned of greater bond than near alliance and strict friendship and society." "Very few men in America; no man in England," Mr. Wallace added, in his book, "is so accurately acquainted with the bibliography of the Reports. In the interchange of a correspondence not as protracted as that of Bishop Jebb and Alexander Knox, but very frequent notwithstanding, I have seldom had reason to receive his criticisms without finding them to be just." In many pages particular assistance is ascribed to Mr. Green, who, as he said in another place, "is not of the class who talk of the truth, but have never sounded the depths from which it springeth" In a letter to Mr. R. A. Brock, Mr. Wallace said: "His knowledge of law books exceeded that of all the men I have ever known, in England or America. It was wonderful, extending alike to what was in the books and what related to them." In 1874, Mr. Conway Robinson, in his *Practice*, (page 1099,) speaks of Mr. Green, and Mr. N. P. Howard, as "jurists, with a combination of legal and literary attainments, rarely to be met with; each had such a knowledge of the Classics as would have been appreciated in England in one of the great universities."

Mr. Green, having in his library a copy of Chancellor Wythe's Reports, containing, in manuscript, additions taken from the author's private copy, and seven cases of his own reporting, in six pamphlets; designed to bring out a new edition of it. This he

postponed on account of the pressure of business, until he was anticipated by Mr. B. B. Minor, the accomplished editor of *The Southern Literary Messenger*. On learning Mr. Minor's purpose, he generously tendered his notes and references, which Mr. Minor gracefully acknowledged in his Preface, and inserted in his Appendix, filling ninety-three pages. Mr. Wallace, in his work on the "Reporters," refers to Mr. Green's "learned notes," and says, "No American Reporter has ever been so carefully and learnedly edited." Judge Lomax, in his second edition of his *Treatise on Executors*, vol. ii, p. 106-7, says, he has been "corrected in an erroneous impression by the learned and elaborate opinion of Mr. Green in his Appendix to 'Minor's Wythe.'" The same Judge, in several places in his "Digest," refers in a like strain of compliment to Mr. Green's Appendix; and so does Sands, in his first edition of his "Suit in Equity," in reference to the subject of the foreclosure of mortgages in Virginia. In *Michie v. Michie*, in 17th Grattan, Moncure, P., said: "Mr. Green's learning and research have developed a mine of authority on the subject, which tends to show that *in England such a question might be decided otherwise.*"*

* *Mr. Green* gave the present writer a note of his own, upon this subject, in which he says: "I cited authorities to show that all the judges of all the courts in England had unanimously decided otherwise a like point arising upon the Statutes of 11 G., 4, and 1 W., 4,

And now there fell upon him, like a flash of lightning from a clear sky, the great sorrow of his life. His only son, John Williams Green, born on the 13th of March, 1838, was untimely slain. He was the pride of his parents' hearts, the light of their eyes, to whom they looked to be the stay and the solace of their declining years; the heir of his legal lore, and the bearer of his name to coming generations. It was an awful blow to his stricken parents. And while Time, the beautifier of the dead, may heal the surface of their wounded hearts, yet those hearts have never made the same music, nor was there the "same brightness in their eyes" they wore when their boy was the light of them. Prose is too poor; the poet only can echo the throbbings of the heart at such a time. For long years the heart may have been in battle, and one verse shall condense the whole of it. And when we think of the many young noble men who, in the bud of their boyhood, poured out their hearts' "last libation" to their sense of

namely: that Sunday *dies dominicus*, and therefore *non juridicus* is, nevertheless, to be reckoned as a day of the term, for purposes of computation. 1 Dowl., 63; Doe v. Roe, 2 Leg. Obs., 77, S. C.; 1 Crompt. & T., 483; 1 Tyrwh., 499, S. C., &c. And, likewise, that Good Friday and each of the four days following it, including Easter Sunday, though they are all specially made *dies non juridicæ*, nevertheless are, for purposes of computation, days of the term, as well as days *in* the term, when they fall within it. 2 Crompt. & L., 472; 1 Dowl., 566, S. C.; 376, Lilly v. Gompertz; 6 Dowl., 479; 7 Jurist, 628; 12 Mees. W., 2; and thirty-five other authorities."

duty in our civil war, we feel the need of inspired poets, like the sweet Psalmist of Israel, to interpret our hearts. "Oh, my son, would God I had died for thee, my son, my son!" Lamartine said, "When I feel sad, I do not open Pindar or Horace; I open the Book of Psalms, and there I find what seems to issue from the soul of the ages, and penetrate to the heart of all generations. Read Greek or Latin poetry after a Psalm at such a time, and see how pale it looks."

It may not be the Christian element, but there is something within us which invests with a halo the brows of these young martyrs. It may be that self-sacrifice, being the distinctive feature of Christianity, the Cross of Christ sheds a sort of sanctity over the noble army of martyrs to a sense of duty. However this may be—and one would not dogmatise upon so sacred a subject—it is true, that in the eyes of the world, and, I may add, of most, if not all Christians, the youth thus fallen is beautiful in death.

The Hero boy that dies in blooming years,
In man's regret he lives, and woman's tears;
More sacred than in life, and lovelier far,
For having perished in the front of war.*

*This gallant youth was a lineal descendant of Colonel John Green, of the Revolution; in the language of the historian, "one of the bravest of brave soldiers." This youth had talents of a high order; of unsullied honor, frank, generous, unselfish, and was gifted with a flow of spirits which spread joy around him in his home and in the so-

During the war Mr. Green made preparations to edit the works of Lord Bolingbroke, and as part of his plan wrote a sketch of the life and works of the

cial circle, and revived many a drooping heart on the toilsome march and weary watch. He fell in a cavalry charge near "*Liberty Mills*," in the County of Madison, on the 22d of September, 1863. It is curious, that in his thirteenth year, he copied in his book of exercises, the poem beginning with the lines—

" 'Make way for *Liberty*,' he cried;
'Make way for *Liberty*,' and died."

He was, in the beginning of the war, a volunteer in Company "F," of the First Virginia Regiment; from which he was transferred to the Rockbridge Artillery. He was, after Jackson's arduous campaign, detailed as a clerk in the Ordnance Department. This place of safety he gave up to a friend in feeble health, that he might take the field in the Eleventh Virginia Cavalry. A large Federal force was making for the Central road by way of Madison Courthouse. General Stewart, to check it until reinforcements came, attacked it with much inferior numbers. The enemy threatening to cut him off from Liberty Mills, it became necessary to retreat. The Eleventh was in advance, and, encountering a force that might have captured them, a vigorous charge was made upon them. John Green was among the foremost leaders of the charge, and, being ordered to surrender, he answered with a shout back to his comrades, and by throwing his empty pistol at his foeman, when he was shot down, and was raised by the man who saw him fall; he seemed conscious, made a sign for water, but never spoke above an unintelligible murmur. He was buried on the 25th instant at Hollywood. The Rev. Dr. Minnigerode, his pastor, said his aspect was pleasant. Upon his brow was the signet-ring of Heaven; a peace like the peace of God; a smile of triumph, like the radiant light upon the soul, which has overcome the last foe, and goes forth to look upon the glories of immortality. Who that stood there in the silent chamber of death, and gazed upon that placid countenance, but said, "He is at rest," and felt as if he heard the parting spirit say:

"My duty done, I do not fear to die."

noble author. He also conceived the idea of writing the historical outlines of the Government, Legislature, and Judicature of the State of Virginia, with the agency of the social life of its people on public sentiment and national progress.

The notes of this work, collected in a volume, says Mr. Brock, who handled his library, are among his manuscripts, which contain also much other rare and valuable matter, including extracts from that once precious, but irrevocably lost, storehouse of historic data, the Records of the General Court.

Among the published results of Mr. Green's learning known to us, continues Mr. Brock, are "An Essay on Lapse, Joint Tenants, and Tenants in Common"; "Articles in Res Judicata"; "The Power of a Partner," and "The Editions of the Code," published in the *Virginia Law Journal*; and an elaborate paper on "Stare Decisis," published in the *American Law Journal* of September, 1880. To these the writer will add that Mr. Green often talked with him of publishing a new edition of Stith's History of Virginia, with notes, &c., and if he mistakes not the scope of the proposed work was sketched by Mr. Green in the *Messenger* or some other magazine. He also annotated Barradall's Virginia Reports.

During the war he filled a place of trust in the Treasury. After the war he was appointed to succeed Judge Lyons on the bench of the "Court of Conciliation," extemporized by the military authority,

while the life of the State was in a condition of suspended animation. The difficult duties of this office were discharged with his usual ability, and the appointment was agreeable to the people. His colleague was Judge Henry W. Thomas.

In 1870 he was chosen Professor of Law in Richmond College, a place fitted to his tastes, and affording a field for the exhibition of his great learning; but his health was not equal to this tax upon his strength, superadded to his other labors, and after a brief experience, he resigned it.

In 1870 he was very highly commended to the Supreme Court of the United States for the office of clerk of that court, and it was thought, he would have been chosen, but for his declining age and growing physical infirmities.

He at one time contemplated an edition of "Buller's Nisi Prius," and Mr. Brock says that a copy of an early edition of this work, containing the copious notes of Mr. Green, is among the treasures of his library. Mr. Maury says that "the design of this work was merged in the larger undertaking of a comprehensive work on 'Practice,' which was the great aim of his life.* Would that it had been given him to see the completion and acceptance of his *opus magnum*. Having had the privilege of reading and

* There is extant, in print, a lecture to his law class, and also a characteristic "Outline of the Principal Proceedings in Action," for the use of the class.

hearing read much of his unfinished work on 'Practice,' I profoundly deplore that he did not live to complete it, and to receive the homage and the gratitude which an admiring profession would have laid at his feet. That work would have presented the law of procedure with an accuracy, a discrimination, and a learning which have not been seen since the masterly performance of Mr. Sergeant (Barrister) Williams. It would have supplied a *desideratum* which is sadly felt by an age which, from neglect of technical learning, is losing sight of the principles of which that learning is the sure guardian and protector. I cannot but think that the appearance of that book would have tended to recall the profession to a branch of study whose neglect has lowered its standard, and opened its ranks to many who, in a correct state of technical learning, would have been deterred from entering them, by a sense of their own incapacity."

We have thought it better to cite the foregoing *testimonia virorum eruditorum*, than to rely upon our own opinions. The line of our learning is not long enough to sound a deep enriched by so many streams.

We shall not follow the footsteps of our friend, as he wends his way in "museful mood" along the winding walks which lead to the basement of the Capitol, ascends to the halls of legislation, dives into the alcoves of the State Library, and searches the archives of the attic. Nor shall we descend with him to the depository of the Records of the old General

Court, and the other courts of record, and rescuing from "the tooth of time," by extraction, some of their valuable contents, bear the spoils to his own "caverned" office, upon one of the declivities of Shockoe Hill, as was that of the Delphic oracle upon one of the terraces of Parnassus. The likeness is suggestive; for surely no antique oracle was ever more invoked for responses as to the future, than was our friend as to the present and the past. Written notes and personal queries were perpetually put to him, and he answered them with a fluency and unselfishness, and with as much ease, as a perennial spring imparts of its fullness, without exhaustion, to all thirsty comers. These queries ranged from puerile puzzles to ponderous problems in philosophy; from classical criticisms to what one of his old law books calls *critica juris ingeniosa*.

Of the minor queries, we remember to have told him once, with an air of triumph, that at last we had a question that would (as the boys used to say) "cork him"; that we had asked every one we met if they could tell us what was meant by selling at auction by "inch of candle," and they all gave it up. He, without a moment's hesitation, gave us the history and literature of it. On another occasion I took him a letter giving a graphic picture of a sermon preached by the great pulpit orator, Whitfield, in old Blandford Church, (1765). The letter was perfect, minus the sign-manual of the author, who I suspected to be Mr.

Robert Bolling, of Chellowe, in Buckingham County, and whom I wished to identify. He took down a book, saying, "It so happens here is a copy of Juvenal with that gentleman's arms and autograph, and by a comparison of handwritings we can tell"; and so we did, and he begged me to keep the book.

William Green will ever be associated in the minds of his brethren of the Bar, and of those whom Bishop Andrews calls his "intimates congenial," with his library, with its cases packed with books, on all the walls, from the floor to the ceiling; with other cases running through the room longitudinally and diagonally, with boxes and trunks in the interspaces, leaving only narrow, winding lanes between them—a labyrinth to which he only had the clue, with which he could thread his way and put his hand upon the coveted book or manuscript, in the darkness of the night, as well as by the dim daylight. In looking on this library one is reminded of the question (in Chaucer's *Boethious*): "Is this the library thou hast chosen for a right certain siege (*sedem*), where thou disputest often touching science and touching mankind?" How suggestive is this word "siege": sitting down before his books and laying siege to them till they give up their treasures! As to his seat, it was not a tripod, as was that of Apollo, or of other oracles, in their grottos. It was simply an old arm-chair in which our friend sat, on one arm of which always lay a manuscript on which he was rapidly

writing, or a book which he was intently reading, and often glossing the margin. No monk ever illuminated his missal with more enthusiasm than did he crowd the margins of his books with notes and comments. Had he lived when the glossators, as one says, were worshipped as so many evangelists,* and one gloss was esteemed by the judges as of more weight than the opinions of two doctors,† Judge Green would have been more the idol of the Bar than he was in his generation. Accursius, law professor at Bologna in the thirteenth century, lived to his seventy-eighth year, and wrote glosses on the whole body of the law. Of him Verini says: "*Furis consultos interpretes Accursius omnes excellet, brevibus que notis enigmata rerum exposuit nullus que error reperitur in illis.*" The like might be said of the subject of this sketch. That learned jurist, Mr. Conway Robinson,‡ speaks of having observed, when in Judge Green's library, the extent to which he, with his pen, had filled the blank spaces in his books with notes; and Mr. Brock has thoughtfully, in his Catalogue, indicated the books thus enriched, and they constitute a large proportion of the whole.

* Advocati adorant glossatores pro evangelistis.

† Si sententia glossatoris duobus doctoribus est contraria, profecto in judiciis, prevaleret sententia ipsius glossæ.

‡ The writer takes this occasion to acknowledge his obligations to his friend Mr. Robinson for a copy of his "English Institutes"—a book not more valuable to lawyers than interesting and instructive to historians and all men of letters.

His office was a museum, not in the sense of an "Old Curiosity Shop," but in the original sense of a place dedicated to the Muses, for there all the Muses were represented, unless perhaps we except Euterpe and Terpsichore, the Muses of Music and of the Dance, and even these are sung in the Odes of Horace and the Metamorphises of Ovid, who John Selden (referring to his "Fasti") calls a great "Canon Lawyer." Judge Green had collected here the luminaries of the law and literature, ancient and modern. Mr. Wallace said "he did not seem to care what he gave for a book." Black letter had more charms for him than the issues of the Oxford and Riverside press. No virtuoso ever searched with more diligence for scarce coins than did he for rare books and manuscripts, and Tischendorf did not collate the codices of the Bible with more interest than he collated old and modern law books. He obeyed the precept of the master he much admired, by turning over by day and by night the models which were all around him.

The citizens of Richmond, who had occasion to traverse its streets by night, will remember the light which shone through the lattices of the little east window of his office, and how it appeared almost as regularly as the evening star, and continued to twinkle often down to the "wee sma' hours" of the morning. No one could more truly than he appropriate and appreciate the words:

“The place that does contain
My books, the best company is to me;
A glorious court, where hourly I converse
With the old sages and philosophers:
And sometimes, for variety, I confer
With kings and emperors, and weigh their counsels,
Calling their victories, if unjustly got,
To a strict account, and, in my fancy,
Deface their ill-placed statues.”

One might, with little imagination, fancy our friend in the dreamy night calling up before his mind's eye the spirits of the great men whose remains were lying on his shelves, clothing them with flesh, arraying them in the costumes of their time and clime, and holding a grand symposium; not in the literal meaning of that word (a *compotatio*—a drinking together), for he had no taste for that, but in the sense of Plato in his Dialogue,

“A feast of reason and a flow of soul.”

The historians rise and tell their stories of all time, in all tongues; the philosophers—physical, mental and moral—display their treasures; the orators fire their long guns; the artists exhibit their statues and paintings; the mathematicians demonstrate; the metaphysicians split hairs; the logicians syllogize, and the poets, with their nymphs and their naiads, of the sea, of the rivers, the fountains, and the woods, composed the choir which made music for the feast. While our friend welcomed all his guests, and en-

joyed their tributes to the feast, there was one class who were the special objects of his devotion, and upon whom all the others were made to wait, and with their laurels crown the Law, to which "all things in heaven and earth do reverence—the very least, as feeling her care, and the greatest, as not exempt from her power; both angels and creatures and men, each in different sort and order, yet all, with uniform consent, acknowledging her as the mother of their peace and joy."

One might fancy our friend's face beaming with unwonted brightness when the lawyers pass before his mind's eye: Ranulph de Glanville,* Justiciary and Crusader, with his most ancient *coherent* account of the Laws and Customs of England; Henry de Bracton,† (*noster clericus dilectus*,) with his Tractatus of the same; Gilbert de Thornton, (or Torrenton,) Epitomizer and Interpreter of Bracton; Fitzherbert, with his Brevium, in black letter; Fortescue, with his Lauds of the Law; Linwood, with his "Testaments"; John Selden, with Fleta‡ in one hand and Hengham (*Flos Auglorum*) in the other; Horner, holding the

* Glanville died in the Holy Land.—*Robinson's Inst.*

† Bracton, though a Justice, seems to have had as many *aliases* as if he had been a fugitive from justice — Bracton, Brycton, Breton, &c., &c.

‡ Fleta, so called from being written in the Fleet; so called from being hard by the Fleet river. The author, for the first time, lately read Fleta in Latin, with Selden's Dissertation on the same, by the favor of his friend, Mr. Conway Robinson.

"Mirror of the Justices;" rude Coke, with the humane and elegant Littleton; Bacon, with his big "Abridgment;" Aleyne, with his select cases, in black letter; Sir R. Brooke, with his new cases; Latch, with his *très bon* cases; Tothill, with his extraordinary cases; Jenkins, with his eight hundred cases; others, with their Chancery, King's Bench, Common Pleas, and Exchequer cases; a long procession of Reporters, from Coke and Plowden to Wallace and Grattan, with hosts of other authors, English, French, and American, each bringing his tribute to the banquet. All these would our friend interrogate, cross-examine, collate, criticise, revise, correct, put to the torture, melt down in his own crucible, in the vain endeavor to extract from them the "Quintessence"* of all they knew, and, casting it in his own mould, produce a perfect book.

In the summer of 1879, Judge Green was prostrated by a severe attack of sickness, "nigh unto death," induced by his continuous labors by day and by night in mid-summer. After some recreation in the mountains, which did not restore his strength, he returned to his studies, and pursued them with undiminished ardor until the ensuing summer, when he received a letter from his brother (James) urging him to suspend his work and visit the White Sulphur

* Among the principles postulated by Aristotle, the fifth was "Quintessence," a heavenly body, immutable and eternal.

Springs. To this he made this characteristic response :

“RICHMOND, *July* 1, 1880,
“7:48 P. M.

“*Dear James,*—From 7 A. M. to 6 P. M. I have worked all this day, with nearly no intermission, except for meals. From 6 P. M. until now I have rested and taken my supper. And this has been my regular mode of life, with very little variation, since you were here. I have improved upon it. That is to say, my strength is very perceptibly greater, and my spirits are better. I am now able to feel hope; before I could not, from very debility. If my eye-sight were not so rapidly failing, I should feel very hopeful, indeed, confident of getting through the press, at least, one volume of my book, and that the most important. I have filled up the chasms that were in the text of it. That is what I have been working upon ever since I finished and sent to Boston my article on ‘*Stare Decisis*,’ which is mentioned in the printed paper I lately sent you. It is, in my judgment, a very good one, and will well deserve to receive approbation. But, although it is accepted, and announced as awaiting publication, yet I hear from Boston that several articles are in hand ahead of it.

“I heard from J. Alfred Jones of your talk with him, about me, in Alexandria; and he, in person, enforced the advice of you both, about my leaving Richmond. I received your very kind letter on the subject of my going, and of ways and means, for which I felt grateful, reminded by it of an expression I have felt vividly from the time I first read it in Hor-

ace, '*Notus in fratres animi paterni.*' Certainly, you and John Cooke have earned it in reference to me. And now I am answering your kind invitation to visit you while Mr. Stephens [Hon. A. H.] is with you."

[The remainder of the letter is in the most genial mood. He regrets that he cannot meet the Hon. Alexander Stephens in Culpeper, whom he remembers with pleasure to have once met with General Schenck at Jack Pendleton's, when he presented him (Mr. Stephens) with a curious book on Astrology; says he must visit his daughter at Fredericksburg, and see her last-born child, Lucy Williams, who had been in danger of dying before he saw her, as he himself had been in danger of dying last summer. He declines going to the White Sulphur, and prefers Wytheville, "where the judges will be." He sends the most cordial greetings of himself and his wife to his brother and his wife, gratefully recognizing the kindness of the two latter to the two former, and bids them a heart-warm adieu.]

(Signed)

"WILLIAM GREEN."

Neither the entreaties of loved relatives, nor the cool breezes and sparkling springs of the mountains, could win him from his "work"; reminding us of the words of Cicero, "*Habet opus magnum in manibus.*" He preferred the Castalian to the White Sulphur Springs, and continued to labor during the fervid heat of July until the 27th, when his brain reeled

under its burden, and the pen fell from his hand ere it had written, *Finis coronat opus*.

The symposium is dissolved. The host is dead. The guests have fled. The "banquet hall's deserted." *Antrum moestum silet, inconsulti que recessus*. He was stricken on the 27th of July and lingered unconscious until the 29th, when he expired. He was buried in Hollywood Cemetery, from St. Paul's Church, (in which he had a pew,) on the 31st. The rector, Dr. Minnigerode, officiated. Nothing was said but the grand old burial service, after whose bugle notes other words often seem commonplace. Every one on this occasion must have felt the force of the words, "In the midst of Life, we are in Death. Of whom may we seek for succor, but of Thee, O Lord? So teach us to number our days, that we may apply our hearts unto wisdom."

Mr. Green's death awakened a lively emotion, which was felt from the centre to the circumference of a large circle of relatives, friends, and admirers, and elicited many expressions of sympathy and of regret. The Bar of Culpeper, the scene of his first successes, was, as was fitting, the first to do honor to his memory. They met during the recess of the court, on the 19th of August, 1880. On motion of Judge Bell, James Barbour was called to the chair, and C. B. Payne (clerk) was secretary. On motion of Judge Bell, the Chair appointed a committee to draw

up resolutions expressive of their pain and sorrow at the death of the late Hon. William Green, LL.D., of Richmond. The Chair appointed the Hon. J. W. Bell, G. D. Gray, Judge Grimsley, and Attorney General Field, who by their chairman, Judge Bell, reported an appropriate preamble and resolutions, reciting leading incidents in the life of the deceased, and doing honor to his great abilities and matchless learning and to the purity of his character and career in all the relations of life, and mourning his death as a common loss to the Bench, the Bar, and to the Commonwealth. The Hon. James Barbour was requested to present a copy of these proceedings to the Court of Culpeper, and to ask that they might be recorded in the order-book, and that the clerk furnish a copy to the *Times* and other newspapers; that Mr. Gray present a copy of them to the Circuit Court, and General Field to the Court of Appeals. At the November term of the Circuit Court (1880), Mr. Gray presented the resolutions of the members of the Bar. We have seen no report of Mr. Gray's remarks, but in the *Times* of January 14, 1881, we have the memorial address of Judge Bell on the occasion. We regret that our limited space will only allow a running recapitulation of the salient points in this loving tribute of the Judge of the county in which Mr. Green won his first laurels. He describes Mr. Green as coming to the Bar without the prestige of college honors, but as clothed with the whole armor of the Law, fashioned and fitted by his own

cunning hand in his father's office. Thus equipped, he enters the lists of contest with the veterans of the Bar for the prizes of the profession, with a manly, yet modest consciousness of his own powers. Among the *personnel* of the Bar of Culpeper at that day, he enumerates R. H. Field, afterwards Judge of the Circuit and President of the Special Court of Appeals; J. S. Barbour, with his imposing person and splendid oratory; the elder Shackelford and Gibson, with their sledge-hammer logic; the bold and dashing Barrister Smith, afterwards twice Governor of Virginia; the brilliant John S. Pendleton, reinforced by R. E. Scott, Chilton, and Forbes, among the ablest lawyers of Virginia. Nothing daunted by such competitors, Mr. Green, by his untiring industry and capacity of labor, soon became an authority to the Bar and the Bench. "Methinks I see him," says the speaker, "coming into court, with his lithe step and his benignant smile, his green bag full of chancery papers, all set for hearing, with every fact and every point of law at his tongue's ends. I can hardly remember a case in which he asked for a decree and did not get it on the terms and in the language in which he had drawn it. Such was the confidence of the Bench and the Bar in him, that when he announced a proposition of law, or a statement of facts, it was accepted as true on all sides." Judge Bell cites the testimony of Judges Field and Moncure, and illustrates Mr. Green's habits of study, by comparing him with the Greek painter Apelles, who made

his mark every day; his maxim being, "*Nulla dies sine linea.*" He then represents Mr. Green's superiority to all jealousies, his high disdain of the arts and sharp practice of the mere pettifogger, who chases a fee, and, when he has pocketed it, thinks he has attained the end of his profession; his tenderness to his clients, and reluctance to exact fees; his single eye to the honor of his high calling, &c., and concludes with the opinion that the necrological records of the year will contain the name of no man who could more truly say,

Exegi monumentum ære perennius.

This is only a skeleton of Judge Bell's memorial address, lacking the unity of form and spirit of the original.

MEETING OF THE BAR OF RICHMOND.

The Bar of Richmond met on the 18th November, 1880, to do honor to their lamented brother. The meeting was remarkable for its numbers and quality. Judge Moncure, President of the Court of Appeals, was called to the chair, and Mr. Austin Smith to be Secretary. William A. Maury, of Washington, sent an elegant tribute to the memory of his friend and brother, which was impressively read by Judge Crump. Tender addresses, which were said to be very touching, were made by Judge Moncure and General Field, of which we are sorry not to have reports.

A committee, consisting of Judge Crump, General

Field, Judge Staples, Ex-Attorney General Marye, General William H. Payne, Professor Davies, James Alfred Jones, P. R. Grattan, C. M. Blackford, and Robert Ould, was appointed, who, by their chairman, Judge Crump, reported the following appropriate and chaste preamble and resolutions :

“ William Green, Esq., having departed this life on the 29th day of July, 1880, the members of the Bar at which he was so long an upright, able, and distinguished practitioner, desire to express in an enduring form their appreciation of his virtues as a man and of his gifts and attainments as a lawyer. With a heart singularly kind, unselfish, and courteous, and with a sense of justice which made him conspicuous for his integrity, he fulfilled the measure of his duty as a citizen with such rare fidelity that his memory is as well an honor to his State as a precious treasure to his friends and brethren of the Bar. His enthusiastic devotion to the studies of his profession was so pure and disinterested that, while he earned more of fame than fortune by his labors, he was content to be what the highest professional ambition could render him—*juris legumque peritus; haud magna cum re, sed plenus fidei*. It will be always to us a matter of profound regret that the work on which he had been engaged for many years was not completed before his death; that the faithful industry and profound learning which had elicited the admiration of the English judiciary, could not have been spared to consummate the tribute of his genius to the science of his love and veneration; therefore, be it

“ *Resolved*, 1. That we hereby testify our sincere appreciation of the private worth and eminent profes-

sional abilities of our deceased brother and our heart-felt sorrow at his death.

"2. That a copy of these proceedings, preamble, and resolutions be presented by Attorney General Field to the Supreme Court of Appeals of the State; by A. A. Smith, Esq., to the Chancery Court of Richmond; by Professor S. D. Davies to the Circuit and Hustings Courts of said city, and to the United States Circuit and District Courts, with a request that they be entered on the records of the said courts respectively.

"3. That a copy of the same be sent by the secretary of the meeting to the widow of the deceased, with an expression of our deep sympathy and feeling for her in her affliction."

When Marcellus died Augustus dedicated to his memory a library and a theatre. There could not be a more fitting monument to Mr. Green than a library, and instead of a theatre a lyceum, such as were combined in Cicero's Tusculan Villa.

The Historical Society of Virginia has a library and a name, but no fixed habitation. It has been a vagrant from tenement to tenement, having no home it could call its own, no safe depository for its treasures, no hall for its anniversaries and its exhibitions. It would be a graceful act to rear a monument to those men of letters who have done so much to found and to keep alive an institution devoted to the rescuing from the "razure of oblivion" our mouldering records, and keeping alive upon our altars those fires which, when once quenched, can never be lighted

again. Conspicuous among these, would be the late President of the Historical Society, Hugh Blair Grigsby, whose splendid historical pictures of our conventions entitle him to be called our Virginian Plutarch; his predecessor, Hon. William C. Rives—statesman, diplomatist, Historian—who deserves a high niche in the Temple of Fame, as well for the purity of his private life as for the brilliancy of his public career; then there is gentle Charles Campbell, our Virginian Antiquary and Old Mortality in one, whose contributions are not only embodied in what he modestly entitles his “Introduction to the History of the Most Ancient Colony and Dominion of Virginia,” but are scattered in shining fragments through all our magazines; and earlier still, that preux chevalier, William Maxwell, who dedicated to the service of the Historical Society his varied attainments, elegant taste, and wit keen and bright as the sabre of Saladin. The time would fail to tell of our poet laureate, John R. Thompson, and Myers and Macfarland, and many others whose names enrich the Historical Society, and which we should not willingly let die. The subject of this sketch, too, was for long a vice-president of the Society, and for many years the chairman of its Executive Committee, and a life-long expounder of its annals. The time is propitious to invoke Virginia to lend a helping hand to a Society which has so long and so lovingly striven to embalm the memory of the high-minded men “who knew *her* rights, *their duties* knew, and knowing dared main-

tain." Scions from Virginia's body, transplanted in the wilds of the West, have grown into great States, which make annual appropriations to their Historical Societies. The Mother of States and Statesmen should not let her daughters surpass her. The omens are propitious. The statues of many of our great men stand guard around the Capitol; the portraits of others look down reprovingly from the walls. The time is not distant, we trust, when *our* Society shall have an edifice with fire-proof library, a gallery for paintings, and a hall for public exhibitions, and on it a sculptured composition (like that in the Pantheon at Paris) representing the genius of Virginia, and inscribed in golden letters "*Aux grands hommes la patrie reconnaissante*"—"The country gratefully recognizes her great men.")

It seems to us that our friend, Mr. Green, was more like those peripatetic doctors of the civil law, who went from city to city, in Italy and France, delivering lectures in the universities, and were looked upon as prodigies of learning and oracles, to be consulted upon all knotty points in the law and in letters generally. Among these were John Peter Capriata, of Genoa, to whose works Amantius prefixed a poem entitled, "*Paulus Amantius in Carmine ad Auctorem et ad Librum,*" which is as singularly descriptive of the subject of this sketch as if he had sat for the portrait; and as most of our readers have probably never seen the lines, we reproduce them here:

PAULUS AMANTIUS IN CARMINE AD AUCTOREM
ET AD LIBRUM.

Qui consulta patrum et nodosi dogmata juris,
Atque vagos Legum anfractus, dubiosque recessus
Ingenio solitus celeri scrutarier et quem
Juris consultum, insignem Menochius olim
Testatur, scriptis commendans, laudibus.
. . . . Tu, seu jura doces, juris penetralia quævis,
Seu patronus agis causas, dubiumque clientem
Sublevat arguto quem promissus pectore sensus,
Unde audet dubiæ melius confidere causæ;
Seu juris responsa refers consulta petenti,
Seu lites dirimis certantes arbiter inter;
Tam rite et recte peragi tibi cuncta videntur,
Tam facile atque brevi interjecto tempore, quantum
Per tardas perfecta moras vix quisque dedesset.

The sense is—

Thy piercing genius ever traced with ease
The knotty points of law, however ancient,
And all the random windings of the Bar.
Menochias gave the praise thy merit claim'd,
And told the world that thou wouldst be illustrious. . . .
. . . . Whether you read law lectures to your pupils,
Or plead a cause in presence of the court,
So well you trace the hidden springs of law,
So happily express your cloudless sense,
That all who listen say you'll be victorious.
Whether you give advice, or when you're umpire,
Justice and truth confirm your every dictate.
No lawyer, tho' he studied months on months,
On some perplexing, controverted point,
Could argue better than you do at once.

MONUMENT.

A monument of granite, simple and firm, like his own character, was erected in Hollywood Cemetery to Mr. Green by his widow, with an inscription by William A. Maury, as follows:

In Memory of
WILLIAM GREEN, LL.D.,
Jurist and Scholar.

BORN 10TH NOVEMBER, 1806,
In Fredericksburg, Virginia.
DIED 29TH JULY, 1880,
In Richmond, Virginia.

JUSTICE, FAITH, CHARITY, COURAGE:
These
Abounded and wrought together in him
BONUM VIRUM FACILE CREDERES MAGNUM LIBENTER.

The Last Will of William Green.

In the Name of God, Amen.

I, William Green, do make this my last will, whereof, I constitute executor my son-in-law, James Hayes. If, from any cause, he shall not act, then, in his stead I nominate and appoint my brother, James W. Green, to be my personal representative. And having full confidence in each, I request that neither of them be required to give security for performance of his duties as such personal representative, or executor.

To my said brother I bequeath all my manuscripts, whether bound or unbound, except what is written as annotations or otherwise in printed books: this bequest includes manuscripts of whomsoever, more especially the written opinions of our late father as a judge of the Court of Appeals, which opinions I have carefully and reverently preserved.

To my beloved wife I devise, for and during her widowhood, one-sixth part of my real estate, which part, added to the third part secured by the law for her dower, will make a moiety or half of the whole.

The said sixth part and the said third part, at the termination, or terminations, of my wife's respective interests in them as devisee or doweress, and the

other moiety or half, forthwith, I devise to the sole and separate use of our beloved daughter, in fee simple, and I direct that her (my said daughter's) distributive share of the clear surplus of my personal estate, be secured, as well as the real estate devised for her benefit as aforesaid, to the sole and separate use of my said daughter, in so far as our present law may fail itself to secure their property to married women.

In testimony whereof, I do set my signature to the present instrument, altogether in my own handwriting, this thirteenth day of October, eighteen hundred and seventy-nine.

WILLIAM GREEN.

Mr. Green's Religious Opinions.

There are many persons who will read these pages, in whose eyes religion, or the relations of the soul to God, is the paramount question for every man. Whatever else he may be, or may have done, if he fails here, he falls short of the chief end for which he was made. These persons are naturally desirous of knowing what were the final conclusions of so learned a man upon this vital question. This is a delicate subject to treat fairly, and the author was inclined to pass it by without touching it. But as wrong impressions in regard to it have gone abroad, we deem it

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our duty, in justice to our friend and to the subject, to tell the truth about it to the best of our knowledge and belief. We premise that Mr. Green never had any sympathy with those unhappy men who, as Carlyle says, "sailed thro' the universe and found no maker thereof; searching in stooping posture and with Lucifer matches and a farthing rush-light for the sun, and could not find it—seeing only the glimmering rainbow of creation, which originated from no sun." Mr. Green never doubted, much less denied, the being of an all-wise, all powerful, and all-good Creator and Governor of the Universe. He was born of Christian parents, had an early religious training, and amid all the chances and changes of his after life he looked back with loving recognition to those who had taught his infant lips to pray, and marked out for him the course of his life. There was little in the pulpit of that day that tended to keep alive the fires which had been kindled at the family altar, and among his associates were some persons of skeptical tendencies, who were the more dangerous from their ready wit and pleasing address. But his chief companions were his books, and among the authors he most read for recreation were such as Horace and Juvenal, whose fine sentiments and beautiful diction, "like apples of gold in pictures of silver," were mingled, as every one knows, with much that dimmed the fine gold, and filled the memory with impure images associated with rites and objects of worship. He was, too, smitten with the fascinating

Bolingbroke, whose unbelief insinuated through his blooming rhetoric, like a serpent hidden in flowers, poured "its leprous distilment" into his mind. Our diverging careers in life so separated us that I had but few opportunities of noting the phases his opinions may have undergone. Many years elapsed before I had occasion, in Richmond and at the White Sulphur Springs, to converse with him on the subject of religion. I then found him speaking in disparaging terms of the Old Testament as untrustworthy in its history and unscientific in its astronomy, and the like. He had been reading Colenso's destructive criticism upon this antique document, and adopting his conclusions, without stopping to verify his premises, as he would have done in the case of a law book or the authenticity of a deed or will. He expressed himself without reserve, as many persons will doubtless remember, as he always "wore his opinions upon his sleeve for daws (or doctors) to peck at."

He listened to Jewish Rabbis, conversed freely with Roman Catholic and Protestant Doctors, and considered carefully what each had to say. Upon this occasion he changed his tone, when reminded that the Church had never defined inspiration. For aught that any one knew, it might be that inspiration may have been limited to religious doctrine proper, and to such facts as were so interwoven with doctrine as to be necessary to the preservation and propagation of its life, in some such relations as the surrounding integuments to the vital organs. That,

as to everything outside of this, whether history, chronology or science, the writers of the Old Testament may have been left to acquire their knowledge as other men, with only such providential supervision as to keep them from making shipwreck of the faith delivered to those privileged to be the organs of special revelations. However this may be, it is certain they spoke in popular language, describing things, not as they really were, but as they seemed to the observer to be. If a rounded system of science had been revealed at that time, it would not have been believed, and it would have discredited their message, as the case of Galileo witnesses. The world was not ready for it. The eye would be blinded by a sudden sun-burst, instead of its gradual rising. Progress by gradual growth is the universal law. The book of nature is a revelation of God, and its pages have been unrolled every day and night before the eyes of all men, and yet how slow have they been in its interpretation; and so it has been with the Revelation in the Bible. Theory after theory has been formed for the solution of the problems in each, only to be rejected and give place to a new hypothesis, which soon meets with a like fate. It may be that when the errors of each shall have been corrected, theologians and scientists may meet in harmony, and sing in concert the same hymn of praise. If, in those things in which they were not inspired, the writers of the Old Testament have been mistaken, and in the transcriptions of manuscripts

by many copyists, through many ages, errors have crept in, they do not affect their authenticity or credibility any more than like errors in secular books, which scholars correct. But if all the counts in the indictment of the Old Testament were granted for the sake of argument, there remains an organic unity between the Old and the New Testaments like that between the root, trunk and branches of a tree, through which a life current circulates, whose vitality is not impaired, but invigorated by cleansing it from excrescences and the pruning of its superfluous shoots.

Upon any other hypothesis than the substantial truth of this history, how can one account for the traditions of the fall of man, of the deluge, of the ark, and the like, which have floated over the earth, and become imbedded in all religions? Again: upon any other theory than that of Divine Revelation, how can we account for the fact that, in the midst of a world of idolaters, in utter ignorance of the harmonies of the material universe, one man alone proclaimed the unity of God, the unity of nature, and the unity of the human race—one Father in Heaven, one family in earth—those ideals of which the wisest philosophers, after the lapse of 2,000 years, had but dim and doubtful glimpses, and towards which all civilization has been tending ever since? Again: upon any other hypothesis, how can you account for the pertinent fact that the voices of the prophets, all through the ages, announced the coming of a Re-

deemer in the fullness of time; that heathen historians and poets echoed their voices, that in the opinion of historians, looking from a merely secular standpoint, all ancient history and mythology looked forward to Christ, as all after history looks back to his advent—all these rays converging to a focus, which is the “Light of the World” and the centre-point of history? If we look at the ecclesiastical firmament of the Old Testament, the manifold types which crowd it have a like relation to the “Sun of Righteousness,” as the heavens over our heads at night, studded with stars, have to the natural sun, at once reflecting his light and heralding his rising. A great German has said that Adam and Christ are the two poles on which the moral world turns, and from which light and darkness, life and death, stream upon individuals and nations; and we add, that the axis which connects these two poles is not an imaginary line, but a real one.

Some of these views were new to our friend, as he often said that he had been so absorbed by other studies and business that theology had not had its due proportion of time and space in his encyclopædia. I did not see him again for many months, and in the mean time he had been ill nigh unto death. He had rallied, and his mind was as vigorous as ever, and as interested in his studies. He uttered no skeptical sentiments, and his whole tone was so changed that I told him he was like a new man. He said there were three things weighing on his

mind: to make provision for his wife and children, to finish his "book," and, above all, to have the divinity of Christ demonstrated to his satisfaction. He said that he feared he had made a great mistake in investing so much money and time in this great library, instead of in something that would be more profitable to his family. He told me that "Young's Christ of History" had shaken his doubts about the divinity of Christ. We talked about the unique character of Christ, as standing alone in history, like a pillar in a desert, with nothing like to him, as admitted by skeptics, from Rousseau to Renan; of the pregnant speech of Napoleon, that "he knew men, and he knew that Christ was not a mere man." We talked of the Christian conception of God as "light and love"; of the Christian illustration of his love in the tragedy of Christ's life and death; of the aim of his teaching, to make all men love God and love one another, an ideal whose realization in the actual world would be heaven on earth; of the method of his teaching, going with love beating at the heart and flowing from the lips, and telling to "every creature" the "good news" that God is Love, and has so loved him that he should love God and love his brother man, because God loves him, &c.

But he coveted a demonstration. To which, it was suggested, that to begin with the demonstration of a great theorem, was to begin at the wrong end. When he studied law, he did not begin with "Fearné on Contingent Remainders," but with the "Student's

Blackstone." When he learned Greek, he did not begin with Homer's Iliad, but with the Alphabet. In mathematics, axioms and definitions came before the Calculus; so, in religion, we must be as "little children," crying for the light and begging for bread. "No man can say that Jesus is the Christ but by the Holy Spirit." Behind the logical faculty there is a spiritual faculty, which, when touched by the Holy Spirit, shines through and illuminates it? And this aid can be had for the asking, for Christ has assured us that our Heavenly Father is *more* willing to give the Holy Spirit to those who ask it, than earthly parents are to give good gifts to their children, and what father and mother could refuse the prayer of a hungry child crying for bread? I put into his hands Liddon's Bampton Lectures on the Divinity of Christ, and left him reading it with interest, and I never saw him again. He was, after some months or more, seized with his last illness, and although the writer was summoned, as in the previous illness, he was himself too ill to obey the summons. Here my personal knowledge stops, and feeling that it needed a supplement, I wrote to Mr. Green's pastor and friend, Dr. Minnigerode, rector of St. Paul's church, for the impression made upon his mind by his intercourse with our friend. The writer has not seen Dr. Minnigerode since Mr. Green's death, and the Doctor did not know what had been written above. Under these circumstances our brother so fits and supplements what was wanting in the foregoing state-

ments, as to seem to us providential. His letter was written in the fullness of his heart, and for our, and not the public's eye, and yet it so carries out and completes our unfinished sketch, that we have begged to be allowed to print it for the satisfaction of the surviving friends of the deceased, and the edification of our readers generally. It is dated—

“RICHMOND, *April 10, 1883.*

“*My Dear Brother,*—I agree with you that it is a delicate matter for either of us to speak of. My own views are very consolatory, based upon my knowledge of the man and the progress he made—in the earnest, I may say agonizing, search for the truth. He took to me, I may say, from the first day of our acquaintance, was very kind in attending zealously the services; he sought my society, and we often spent whole evenings together in discussing his religio-philosophical, or philosophico-religious views, in which the adoration of the great Creator and man's obedience to Him as the absolute condition of happiness and right, formed the leading idea. His views of the Bible and of positive Christianity were very deficient then, partly because of his unbounded admiration of ancient literature (Latin chiefly), and placing the second-hand philosophy and commonplace ethics of Cicero and the Satires of Juvenal, &c., so high as to compare them, with evident complacency, with the morality of the Gospel. Besides this he was a lawyer in the fullest and strictest sense of the word, every inch of him, and his mind was so thoroughly trained to weigh everything in that balance, and admit nothing but upon such eviden-

tial proof as he was used to in court, that it was next to impossible for him to break through these narrow bounds, and when, under God's providence, his mind was carried beyond, it was a triumph of grace, even though that phantom, 'sufficient legal evidence,' still haunted him. I remember conversations with him, years before his illness, in which he endeavored to justify his views to me, construing all I said in a general way, so as to wind up with the assertion, that after all, we were agreed essentially. The good man took it very kindly when I told him he was mistaken, and there was, with all *apparent* agreement, a *radical* difference, beginning with first premises and affecting all the results, and the character of the results flowing from them. But he was an honest, earnest searcher after the truth, and I believe the suspicion gradually grew upon him (he hardly could say how) that he might be mistaken in his premises, or in the way in which he tried to test the truths. It is certain that his mind was much more open to conviction, and especially, that the *desire* had grown up in his mind to be *convinced*—to be able honestly to say that he believed and held the truth.

"That, became the leading feature of his spiritual condition; and, unless I am mistaken, continued with increasing force during the interval between his two attacks of illness, the second of which carried him away. During all that time he craved my visits, and requested my prayers with him, fully satisfied that they should be offered by me *in the name of Christ*. I hardly ever saw one so anxious to say (in consistency with what his antecedents led him to believe to be necessary for a perfect conviction) that he was

fully convinced and satisfied. That was the chief desire left, apart from his affection and care for his wife and children.

"As time advanced, and he felt it was getting shorter, he made the Resurrection of Christ the last point, and said as soon as he was strong enough he would give his whole mind to the examination of this point. As far as the *will* went, he was all right, I think, and he seemed to throw the promise of a final examination of this point as a quieting sop to his life-long legal prejudices. But all along, through these long days and weeks, there was the one hope and confession of his soul, coupled with the bitter cry, that he did not know how to go further: all was concentrated in the daily, hourly prayer, "Lord, I believe; help Thou mine unbelief."

"That is all, dear Slaughter, I can say about the matter. It is a great comfort to me, and I have told his family so.

"Yours, affectionately,

"CHARLES MINNIGERODE"

We thank God for this testimony, and that we are not left to mourn as those who have no hope. We cannot keep down the thought that if our friend had lived to give us the results of his thorough examination of the fact of the resurrection of Christ, by the rules of legal evidence, how he would have cleared away the rubbish that hides from some eyes the rock on which this corner-stone of Christianity firmly reposes, and what a valuable contribution it might have been to the literature of the subject.

HEREDITARY GENIUS.

The present writer was the first person to give currency in print to the reputed descent of the Hon. William Green, LL. D., from William Peere Williams, Barrister-at-Law, and the famed English reporter. My authority was the late General James Williams, of "Soldier's Rest," in the County of Orange. He was the grandson of the first immigrant of the name and family to Virginia, and said, that such was the "received tradition in the family." Our Mr. Green himself was the first to cast a doubt on the truth of this tradition. This he did by making a note upon the margin of a copy of "St. Mark's Parish," in my library, in these words: "This is very doubtful, and it seems impossible. Peere Williams died about 1742, and I was born in 1806, in the sixth generation from him, according to the sequel here."

I afterwards procured, through the kind offices of Mr. Lea, of Massachusetts, who had married a granddaughter of the late Dr. William Williams, of Culpeper, the pedigree of William Peere Williams, Barrister and Reporter. From this it appears that the Reporter was a son of the "Clerk of the Extracts" (in the time of Charles II), who married a daughter of William Peere, Esq. The Reporter's sons were:

- i. Sir Hutchin Williams, Baronet (April 4, 1747).
- ii. Frederick Williams, D. D.
- iii. Peere Williams.
- iv. George Williams.

And three daughters.

The sons of Sir Hutchin Williams were:

- i. Sir William Peere Williams, M. A., Cambridge, 1759; killed in battle 1761. He was succeeded as Baronet by Sir Booth Williams, born 1732. So that the first American brothers could not have been grandsons of the Reporter by these lines. Of the other sons of the Reporter: Peere, had only daughters; the children of George are not given, and the immigrant brother may have derived from him. I showed the pedigree to Mr. Green, and upon computation, he concluded that the descent was most probably from a brother of the first Peere Williams.

In English pedigrees, the cadets of a family are often omitted, and they are limited to eldest sons and heirs of property or title. These details are rather curious than important, except for their bearing upon one of the living questions of the day—"The Heredity of Genius."

It has ever been the creed of Christendom, that our first forefather in Eden was the root out of which the human family tree has grown, and as all the branches of a tree partake of the nature of the root from which they spring, so all human beings inherit the nature of our fallen forefathers. This article of the Christian creed was long a matter of

mockery to the unbeliever. In the meantime, plain men, without regard to any creed, and without thinking of any theory, but as the result of their own experience and observation, discovered the workings of this law of heredity, in the vegetable and animal kingdoms, and applied it practically to the culture of the fruits of the earth and the improvement of their stock. And now men of science, using scientific methods, are everywhere expounding this law and using it as a weapon to smite Christianity, in seeming obliviousness of the fact that Christianity in this, as in other matters, has been ahead of them, and anticipated their conclusions. Some, perhaps many good people are jealous of science upon this point, because some of its chief votaries, as Darwin, Baudsley, and others, are pushing it to infidel extremes. But Christian champions, conspicuous among whom is Joseph Cook, are springing up, and, armed with the facts and method of the scientist, are grappling manfully with them on their own chosen ground, driving them from their extreme positions, and holding them within the limits of demonstrated facts, which are shown to coincide with revealed truth.

The following laws of hereditary descent are now generally received :

1. The law of direct heredity, by which children resemble one or both of their parents.
2. The law of reversional heredity, according to which a child may resemble its grandparents or more remote ancestors.

A writer in the *Edinburgh Review*, in a notice of the author's "Memoir of Randolph Fairfax," points out as a singular instance of the pertinacity of family type, the reappearance in this youth and some of his relatives, in our late civil war, of that warlike Puritanism of which their remote ancestor, Thomas Fairfax, was so exalted a type.

Then there is the law of collateral heredity, according to which a child may resemble an uncle or aunt, or some kinsman outside the direct line of descent. When one considers the countless different elements representing all his ancestors, which meet in the blood of every person, it is impossible to tell which one may come out visibly in any particular individual, or how many of the infinitesimal elements may meet and neutralize each other, or combine into new compositions. Like rivers which sink into the earth, and after running underground a certain distance, rise to the surface again, so certain qualities descend unseen for years and reappear in later generations. Beyond certain limits, we know nothing; the elements of the problem are beyond computation, and the problem is insoluble. But enough is known to invest the subject with the liveliest interest in the minds of all people who think.

But this may perhaps be regarded as an impertinent digression; my purpose being chiefly to note the curious fact that the Williams family, of which Mr. Green's grandmother was one, has in every generation showed a fondness and a fitness for the law,

which is very remarkable, however it may be accounted for. I now proceed to establish this proposition by an induction of particulars. The father of our Mr. Green was the Hon. John Williams Green, sometime Chancellor, and afterward promoted to the Bench of the Supreme Court of Appeals, and of whom Mr. Grigsby said, in his historical picture of the Convention of 1829-30, "His name will go down to posterity associated with one of the most memorable debates on record, but whose modest demeanor gave no indication of the high judicial merit generally accorded to him." Of his sons, besides the subject of this sketch, were: First. John Cooke Green, for fifteen years the efficient Commonwealth's Attorney of Culpeper. Second. Thomas Claiborne Green, President of the Court of Appeals of West Virginia. Third. Major James Williams Green, a leading member of the Culpeper Bar, whose son, Angus McDonald, is a lawyer, and the Mayor of the town. To these may be added S. Slaughter Green, the son of Dr. Daniel Green and grandson of Judge J. W. Green, a rising young lawyer of Charleston, West Virginia.

Of the brothers of our Mr. Green's grandmother, the eldest, Major John Williams, had a son, Isaac Hite Williams, of Fredericksburg, one of the ablest lawyers of his day, whose genius descended to his son, John James Williams, long prominent at the Bar of San Francisco, and to five of his grandsons, Colonel John Mercer Patton, Colonel George S. Patton,

who fell in battle at Winchester; Colonel Tazewell Patton, who was killed at Gettysburg; Colonel George Smith, Reporter of the Supreme Court, and Captain Henry Smith, now lawyers of reputation in California. From the same Major John Williams descended S. Smith Turner, the Hon. R. H. Turner, and the Hon. John T. Lovell, of whom, the last two rose from the Bar to the Bench.

Another brother of the mother of Judge John Williams Green, was General James Williams, of "Soldier's Rest," from whom descended several lawyers, among whom are Charles U. Williams, late representative of Richmond in the State Assembly, George Morton Williams, and James Williams Morton, late Commonwealth's Attorney of Culpeper.

Sally, daughter of General James Williams, married Hon. George French Strother, (Member of Congress,) of Culpeper, and had issue—James French Strother, lawyer and Member of Congress—whose sons, John (late Senator), Philip Williams, and James French, are all lawyers, and the last two Judges, the former of Giles, the latter of Rappahannock County.

Another brother of the mother of Judge Green, was Philip Williams, for fifty-five years clerk of the courts of Shenandoah, whose son, Philip Williams, of Winchester, had a national reputation as a jurist, and has been succeeded by his son, John James Williams, of Winchester, and his nephews, General James H. Williams, of Winchester, William Williams, of Woodstock, E. Holmes Boyd, of Winchester, and his bro-

ther, sons of his sister Ellen, and the Rev. Dr. Boyd.

Another brother of our Mr. Green's grandmother was William Clayton Williams, a bright light of the Bar of Richmond, whose gown fell upon his son, John Green Williams, Sr., and his grandson, John G. Williams, Jr., and upon another son, Lewis B. Williams, the veteran Commonwealth's Attorney of Orange, and from him upon his sons, Colonel Lewis B Williams, Jr., untimely slain in the late war, and the Hon. William G. Williams, Judge of the County Court of Orange, and John Green Williams, Commonwealth's Attorney of the same county.

But there is another stream of blood mingled with that of the Williams, in the veins of our Mr. Green, which in other combinations is alike fruitful of lawyers. It is that of the Clayton's, one of whom was his great-grandmother. It is curious that at the very time when William Green was of King William's Body Guard, and George Slaughter "gentleman in waiting" in the Queen Dowager's Court, Sir William Williams was of his Majesty's Counsel at Law, Sir Thomas Clayton was of the Privy Council, Sir Robert Clayton Member of Parliament, and Sir John Clayton the head of Merton College—branches of all which families, met and intermarried in Virginia. Early in the following century, during the administration of Governor Spotswood, John Clayton was Attorney General of Virginia, and accompanied John Fontaine to Germanna in 1714.

John Augustine Clayton, son of Philip Clayton of

Virginia, was an able jurist and statesman in Georgia.

John M. Clayton, of Delaware, was of the same stock, as was agreed between him and a member of the family from Virginia, who visited him when he was Secretary of State.

We now turn to the offspring of the union between the Claytons and Pendletons. Anne, daughter of Philip Clayton, of "Katalpa," in Culpeper, (so called from a katalpa tree,* the first in the county, which he brought with him from Essex,) married Nathaniel Pendleton, grandson of Philip Pendleton, the root of the family in Virginia.

Nathaniel Pendleton, born 1746, died 1821, in New York. He was an Aid to General Greene, in the Revolution, and second to Alexander Hamilton in his duel with Aaron Burr. He was an eminent lawyer, and had a son, Edmund H., who was a judge and Member of Congress, and another son, Nathaniel Greene Pendleton (born 1793, died June 16, 1861), Aid to General Greene, M. C., 1840-2, and the father of the Hon. George H. Pendleton, the present distinguished Senator from Ohio. The eminent Judge Henry Pendleton, of South Carolina, whose memory is perpetuated in the Pendleton district of that State, was the second son of the first Nathaniel Pendleton and Ann Clayton.

* This is stated on the authority of Captain Philip Slaughter, who was a grandson of Philip Clayton, and was born in his house. Rev. Mr. Clayton, Rector of Crofton, England, visited Virginia, and wrote to the Royal Society a learned dissertation upon its climate, soil, &c, a reprint of which may be seen in "Force's Tracts."

Philip Pendleton, fourth son of Nathaniel and Ann (Clayton) Pendleton, born in Culpeper, and who settled in Martinsburg, was a prosperous lawyer, leaving a handsome landed estate. It was he who mainly built the old Church in Norborne parish, now in ruins, and where the family cemetery now is. He was the grandfather of the brothers, Hon. John Pendleton, Andrew, and the Hon. Anthony Kennedy, late United States Senator.

Philip Pendleton's daughter, Elizabeth, married Colonel David Hunter, who was the grandfather of General David H. Strother (Porte Crayon) and of John Blair Hoge, judge and Member of Congress. The sons of Colonel David Hunter—Philip Pendleton, Andrew and Edmund Pendleton Hunter, were well known lawyers, as is now Major R. W. Hunter, son of the last. The third son of Philip Pendleton, of Martinsburg, was Judge Philip Clayton Pendleton, whose son, Edmund Pendleton, was also judge of the Circuit Court. Alexander, son of the last, is a rising young lawyer of Winchester.

Maria, seventh child of Philip Pendleton, of Martinsburg, married the famous Valley lawyer, John R. Cooke, father of the historian and novelist John Esten Cooke. Judge Henry Shackelford, of Culpeper, his brother Howard, of Warrenton, and his nephew and son-in-law, Colonel J. Catlett Gibson, of Culpeper, Captain Eustace Gibson, of Huntington, a Member of Congress, and Richard Catlett, of Staunton, well known lawyers, are descendants of

Nathaniel Pendleton and Ann Clayton, through Elizabeth Pendleton, who married Benjamin Tutt, and Anne Tutt, who married Robert Catlett, of Fauquier. Colonel G. Woodson Hansbrough, of the Valley of Virginia, the present Reporter to the Court of Appeals, is a lineal descendant of Philip Clayton, of "Katalpa."

The foregoing Philip Clayton, of "Katalpa," the common ancestor of all the lawyers enumerated in this chapter, had another daughter, Susan, who married Colonel James Slaughter, of Culpeper, and from this union sprang many lawyers, among whom were his grandson, Judge James Slaughter, of Bardstown, Kentucky, and *his* brilliant son, Clayton, State Senator, &c.

Colonel William B. Slaughter, Secretary of State of Wisconsin; Richard W. Thompson, late Secretary of the Navy; and Judge John W. Jones, of Indiana; Daniel French Slaughter, (Senator), and his son Philip; Colonel Reginald Thompson, of Louisville, judge of the City Court; Joseph Fry, eminent judge of Wheeling; Judge Henry Fry; Thomas Hope, of Huntington; William Hope, of Gallipolis, Ohio; William M. Gwin, son of ex-Senator Gwin, San Francisco; Samuel Slaughter Merrill, Denver, Colorado, and doubtless divers others whom the author does not know, or cannot now recall.

If we were to ascend one generation higher, to the father of Mrs. Clayton, of "Katalpa," (Coleman), it would greatly enlarge the field of induction, and

comprehend many other lawyers, conspicuous among whom would be the late United States Senator Foster, of Tennessee, and the living, very eminent jurist, Judge Thomas Coleman Slaughter, of Croydon, Indiana. It should not be forgotten that this induction is limited to those branches of the several families in whom the blood of the Claytons runs, and therefore excludes lawyers outside of this limit—such, for example, as the great Edmund Pendleton, President of the Court of Appeals of Virginia, and the brilliant John S. Pendleton, of Culpeper, and the Hon. Judge John S. Green, of Danville, Kentucky, and some others.

I had written thus far before I had seen Dalton's book, whose design is to show, that as a general rule, eminent men have relations eminent in some way, if not in their special line. He has tested this theory by applying it to statesmen, poets, literary men, artists, and to wrestlers and rowers. The section on judges had peculiar interest for us, because of its bearing on the contents of this chapter. He has taken the lives of the judges by Foss as his guide. This limits the induction to the interval between 1660 and 1865, thus excluding many judges outside this limit. Within it are two hundred and eighty-six judges, of whom one hundred and nine have known eminent relations, and more than one in every nine have been either the father, son, or brother to another judge; to say nothing of many other relatives who were lawyers, and many other judges who were more remote kinsmen, leaving no doubt

(he thinks,) that this peculiar type of genius is transmitted by descent.

We add an enumeration of English judges, which will probably interest some of our readers.

On taking leave of this subject, we beg to commend to the reader the Boston Lectures on "Hereditry," by Joseph Cook, who has discussed it from the Christian stand-point, with a combination of learning, logic and eloquence, rarely surpassed.

JUDGES OF ENGLAND AND OTHER HIGH LEGAL OFFICERS, BETWEEN 1660 AND 1865, WHO WERE AND ARE RELATED.

FATHERS.	SONS.
Atkyns, Sir Edward, B. E. (Charles II).	Sir Robert, Chief Justice C. P.; Sir Edward, B. E. (James II).
Atkyns, Sir Richard, Chief Justice, North Wales.	Sir Edward, B. E. (Charles II).
Bramston, Sir Francis, Chief K. B. (Charles I).	Sir Francis, B. E. (Charles II.)
Coleridge, Sir John, Justice Q. B. (Victoria).	Sir John, Duke, Solicitor-General.
Dolbein, Sir William, Justice K. B. (William III).	Sir Gilbert, Justice C. P., Ireland, cr. Baronet.
Erskine, T.; cr. Lord Erskine; Lord Chancellor.	Hon. Sir Thomas, Justice C. P. (Victoria).
Eyre, Sir Samuel, Justice K. B. (William III).	Sir Robert, Chief Justice C. P. (George II).
Finch, Heneage, Lord Chancellor; cr. Earl of Nottingham.	Heneage, Solicitor-General; cr. Earl of Aylesford.
Finch, Sir Heneage, Recorder of London.	Heneage, Lord Chan.; cr. Earl of Nottingham.
Forster, Sir James, Justice C. P. (Charles I).	Sir Robert, Chief Justice K. B. (Charles II).
Gurney, Sir John, B. E. (Vict.)	Rt. Hon. Russel Gurney, Recorder of London.

Herbert, Sir Edward, Lord Keeper (Charles II).	Sir Edward, Chief Justice K. B. (James II).
Hewitt, James; cr. Lord Lifford; Justice K. B.	Joseph, Justice K. B., Ireland.
Jervis, ———, Chief Justice of Chester.	Sir John, Chief Justice C. P. (Victoria)
Law, Edward; cr. Lord Ellenborough; Chancellor K. B.	Charles Ewen, M. P., Recorder of London.
Pratt, Sir John, Chief Justice K. B. (George II).	Earl Camden, Lord Chancellor, (George III).
Raymond, Sir Thomas, Justice C. B.	Robert; cr. Lord Raymond; Chancellor K. B. (George II).
Romilly, Sir Samuel, Solicitor-General.	Cr. Lord Romilly, Master of Rolls, (Victoria).
Willes, Sir John, Chief Justice C. P. (George III).	Sir Edward, Justice K. B. (George III).
Yorke, Philip, Lord Chancellor; cr. Earl Hardwicke.	Hon. Charles, Lord Chancellor (George III).

BROTHERS.

Atkyns, Sir Robert, Chief C. P. (William III).	Sir Edward, B. E. (James II).
Cowper, William; cr. Earl Cowper; Lord Chancellor.	Sir Spencer, Justice (George II).
Erskine, T.; cr. Lord Erskine; Lord Chancellor.	Henry, twice Lord Advocate, Scotland.
Hyde, Sir Robert, Chief K. B. (Charles II).	Sir Frederick, a Judge in South Wales, Judge of Admiralty.
Lee, Sir Wm., Chief K. B. (George II).	George, Dean of Arches, etc.
Lyttleton, Lord, Lord Keeper (Charles I).	Sir Timothy, B. E. (Charles II).
North, F., cr. Earl of Guilford; Lord Chancellor.	Roger, Attorney General to the Queen.
Pollock, Sir F., Chief B. E. (Victoria).	Sir David, Chief Justice Bombay.
Powis, Sir Littleton, Justice K. B. (George I).	Sir Thomas, Justice K. B. (George I)
Scarlett, Sir J.; Lord Abinger; Ch. B. E.	Sir William, Chief Justice Jamaica.
Scott, John; cr. Earl of Eldon; Lord Chancellor.	William, cr. Lord Stowell; Judge Adm.

Wilde, T.; cr. Lord Truro; Lord Chancellor.	Sir ———, Chief Justice Cape of Good Hope.
Wynham, Sir Hugh, B. E. (Charles II).	Sir Wadham, B. E. (Charles II).

GRANDFATHERS.

GRANDSONS.

Atkins, Sir Robert, Chief C. P. (William III).	Sir J. Tracy (assumed name of Atkins), Cursitor B. E. (Geo. III).
Burnett, ———, Scotch Judge; Lord Cramond.	Sir Thomas Burnett, Justice C. P.
Gould, Sir Henry, Justice Q. B. (Anne).	Sir Henry Gould, Justice C. P. George III).
Jeffreys, ———, Judge in North Wales.	Jeffreys, Lord, Lord Chancellor James II)
Finch, H. Solicitor-General; cr. Earl Aylesford.	Hon. H. Legge, B. E. (George III).
Walter, Sir E., Chief Justice South Wales.	Lyttleton, Sir T; B. E. (Charles II).
Heath, Sir R., Chief K. B. (Charles I).	Verney, Hon. Sir J., Master of Rolls.

NOTE.—The Randolphs, of Virginia, are remarkable for the number of lawyers and other eminent men of the same descent. Among these are Sir Jno. Randolph, Speaker, Treasurer and Attorney. His son, Beverly, was Governor of Virginia. Another son, Peyton, was Attorney General, and President of the first Congress, whose son, Edmund, was Governor of Virginia, Attorney General and Secretary of State (U. S.); Thos. Mann Randolph, Governor of Virginia and Member of Congress; General George W. Randolph, Secretary of War (C. S.); John Randolph, of Roanoke; Thos. Jefferson, President of United States; Jno. Marshall, Chief Justice United States; Judge Henry St. George Tucker, Author, Member of Congress, and President of Court of Appeals; Judge Beverly Tucker, Author and Professor of Law, William and Mary College; Richard Bland, Member of Congress, &c.; James Pleasants, Member of Congress, and Governor of Virginia; John Randolph Tucker, Member of Congress, Attorney General, and Professor of Law (Washington and Lee); W. J. Dawson, Member of Congress.

Of the same descent were General (Light-Horse Harry) Lee, Member of Congress and Governor of Virginia; General Robert E. Lee, and his brothers and sons; Wm. Munford, Translator of Homer's Iliad; Commodore B. Kennon and many other eminent men.

The transmission of physical tendencies by descent is a fact well-known, so that every one comes into the world with intellectual, physical, and, to some extent, moral heritage from all his ancestors, which it would be as impossible to count as it would be to discriminate the countless drops of rain which compose a river. It should not, however, be forgotten, that every man, by the power of his own will, especially if aided by help from on high, can modify, and even so conquer these tendencies, if ill, and strengthen those which are good, as to establish, as it were, an improved stock, &c. To expand the whole subject, even if the writer were capable of doing it, would demand a separate treatise.

PREFACE

EXPLANATORY OF THE "REMINISCENCES."

It is due to the author that the reader should be informed that the following Reminiscences were written before the foregoing Sketch.

They were designed for the *Standard* newspaper, but from the author's ill-health, they were laid aside until recently, when he was induced to write the Sketch. This will explain any want of unity and a few repetitions.

It might have been better to have reconstructed the whole, and to have embodied the Reminiscences in the Sketch, but this explanation will answer the same end.

PERSONAL REMINISCENCES
OF
WILLIAM GREEN, LL.D.

BY THE
REV. PHILIP SLAUGHTER, D. D.

Soon after the decease of Judge Green, I was requested by eminent members of the Bar of Richmond to write a memoir of him for the Historical Society; but feeling, as I did, a deep grief for the personal loss I had sustained, and being myself in poor health, I had no heart for such a task at such a time. That office has been well done by his brethren of the Bar, of which he was conceded to be in learning *facile princeps*, and by his Fellows of the Historical Society, of which he was an officer and an ornament. But now that the effects of the first shock resulting from his sudden departure from us is somewhat abated, the present writer would hang up an humble votive offering in the temple of his fame; not because I think that the offerings which have been laid upon the altar to his memory need any supplement. The feeblest voice, if in accord, may blend with the grandest chorus without presumption, and without marring the harmony.

The writer having been associated intimately with the deceased in boyhood, youth, manhood, and old age, has been induced to think that some personal reminiscences of a gentleman so urbane in his social relations, so pure and so tender in domestic life, and of such marvellous and matchless learning in the lore of the law, and also in the wide field of history and general literature, might be of interest to his surviving friends and fellow-citizens.

The only objection which I have to doing this office, is, that Personal Reminiscences involve the necessity of using the personal pronoun more frequently than accords with my own taste, or that of the unsympathizing reader.

Mr. Green was my senior in age by several years, he having been at the Bar while I was a student of law at Culpeper, which place he persisted in calling "Culpeper Courthouse," asking pardon (as he said in a late letter to me) of the old burg, christened since the war Culpeper

By the way, it occurs to me here to say what I happen to know, and what may not otherwise be known, that he was the author of the elaborate and instructive article in Martin's *Virginian Gazetteer* on the County of Culpeper. Richard Wigginton Thompson, late Secretary of the Navy, James French Strother (late Member of Congress), Mr. Green and myself, who were all kinsmen and school-fellows, made our first essays in the columns of a newspaper in the *Culpeper Gazette* of that day. I nomi-

nated, for the first time, John S. Pendleton as the young men's candidate for the county. Strother and Thompson vigorously seconded the nomination. William Green advocated the claims of Colonel Gibson, the father of the present delegate, and we had a long and sharp contest, raising quite a tempest in the village tea-pot. Mr. Green's candidate prevailed; but Pendleton, who was even then giving promise of the brilliant success, which he afterwards achieved as a popular orator, some years later, had his triumph. Mr. Green and I had many like tilts in the same newspaper, notably upon the division of the County of Culpeper (1831), to which he was strongly opposed, and which I advocated. Wishing to do some sharp-shooting from under cover, I got Stanton Field, brother of the judge, to be sponsor for that article. But the use of one word discovered me to my astute antagonist. The word was "Exegesis," with which I, who had concluded to give up the law for the gospel, had become familiar. Mr. Green, in his reply, said that there was but one person in the village whose studies made him familiar with theological terms. He then revenged himself upon me for my bush-whacking, by playfully reminding me of "a certain animal in the lion's skin," whose dialect betrayed him. This was a good hit, and I took it in good humour, as it was intended to be taken. These duels "with paper pellets of the brain" never marred for a moment the harmony of our hearts, whose

melody became sweeter as their strings were tuned by time. Mr. Green having been, as I have said, my senior in age, and my superior in culture, generally got the advantage. If there were any exceptions to this rule, it would not become me to reproduce them.

The mention of Secretary Thompson's name reminds me of a remarkable example of his memory. Soon after his accession to the Navy Department I asked him if he remembered some incidents of our school-days. He said yes, and I remember what you have doubtless forgotten. I can repeat now a quotation you made from Tom Moore, in your Fourth of July speech at a barbecue in Sam Washington's tavern in Stevensburg:

"In the woods of the North there are insects that prey
On the brain of the Elk, till the very last sigh.
Oh! Genius! thy patrons, more cruel than they,
First feed on thy brains, and then leave thee to die."

Moore (he added), applied the lines to Sheridan; you applied them to Jefferson, who had just made an unsuccessful application to dispose of his property by lottery to pay his debts.

Returning from this, perhaps impertinent, digression, I may say that our paths in life parted at this point. William Green remaining at the Bar, and I going to the pulpit. During my term at the Bar, I became the administrator of a large estate. A difficult question of law having arisen in my adminis-

tration, I consulted Mr. Green, who gave me his written opinion. Wishing to be fortified behind the highest authorities, I took the opinion to the great jurist, General Walter Jones, at Washington city. I found him on his hands and knees, crawling among books, maps and papers, strewn over his parlor carpet. He read the opinion, studied it for a while, and perhaps referred to some authorities. He then endorsed the opinion with these words, which impressed themselves on my memory, because I thought them so complimentary from such a veteran to a comparative novice at the bar: "I can say nothing to add to, or detract from, Mr. Green's very able opinion upon the points in question." If my readers will pardon another digression, I will mention that Judge John W. Green (father of William,) told me that he was once associated with General Jones in a cause involving very grave issues, at Warrenton. Each was to argue one side of the case. Judge Green (as was his wont), prepared his side thoroughly, and going to Warrenton, found General Jones lounging about the hotel, smoking his cigar, and seemingly oblivious of the business which so absorbed him. Apprehending that the burden of the case would fall upon him, he sat up that night, preparing to argue the whole case. He made his argument, which was answered by the adverse counsel, and he hung his head upon the bar, giving up the case as lost. He found himself, an hour later, listening with fixed eyes and open mouth of won-

der, to General Jones, who made the most masterly argument he ever heard.

Soon after my settlement as pastor of Christ church, Georgetown, D. C., I was summoned by Mr. Green to Culpeper, to marry three couples—Mr. Green, and his brother, Daniel, (late Surgeon of the United States and the Confederate States Navies,) to two sisters; and the Rev. Mr. Schermerhorn (a Presbyterian divine), to Mrs. Spotswood (the poetess), who, I think, had taught the other two brides. Mr. Schermerhorn had the courtesy to call and take me in a carriage (there was no railroad then), to Culpeper, which we reached after a tedious journey of two days—a journey now made in three hours. Just before the ceremony an incident occurred, which is so characteristic that I will not omit it. Mr. Green took me aside and told me that he had had doubts about my "*legal* authority to solemnize the rite of matrimony in Virginia," but upon examination his doubts had been removed. I could not resist the temptation of exclaiming: "The ruling passion strong in"—marriage. His bride was then in the bud of her beauty, and most faithfully and tenderly has he kept the troth he then plighted, "to love and to cherish and to keep, in sickness and in health, till death us do part".

I could fill pages with like incidents, but I must leave room for some illustrations of his literary diversions from his professional routine, which are

known only to me. The magazines, Historical Society Collections, and newspapers, contain many things from his pen. I shall purposely omit all reference to anything of his which has been printed or otherwise made public. To those who know anything of his labors generally, and of his special devotion to his "*magnum opus*," in which he had by day and by night for long years been striving to realize an ideal, too high for even his surpassing energy of mind and body, and his almost unparalleled learning in the law, it is amazing that he had any time or taste for literary lucubrations. One can only account for it on the theory that what to most other men was hard work, to him was only an unbending of the brow—a refreshing recreation from severer studies. Within the last two years he presented me with a manuscript, twenty-seven pages of "cap" paper, closely written by his own hand, in which he, with a wealth of historical learning, had developed the rise of certain counties, as Henrico, Charles City, James City, and Elizabeth City, out of towns of the same name, accompanying the gift with the remark, "This may be of some service to you; it can be of none to me now." This valuable contribution to the history of the State I purpose to print, or turn over to the Historical Society.

In 1874, I put a query to him about the history of the laws in England touching vestries, &c. In a few days I received an elaborate citation of the leading authorities on the subject, giving volume, page, sec-

tion, and marginal notes, accompanied by the characteristic remark, "This is the best account I find, though not all, by any means, in my library." "Your letter" (he adds) "was received on the 12th, post-marked the 11th and dated the 10th, on which last-mentioned day I entered my sixty-ninth year. In my old age I am compelled by circumstances to labor more than I was ever, by necessity, obliged to work in my youth, or prime, or middle age. I fear that the time I have bestowed on this paper will result in more harm to me and those dependent on me, than benefit to you; nevertheless, you are heartily welcome to it, or I would not have performed it." Of course, if I had dreamed that he would have put himself to so much trouble, I would rather have gone without the information than put this burden upon his over-taxed strength. This letter concludes in a tone of sadness and tenderness, which I may be pardoned for reproducing, because it discloses a phase of his character which the public seldom, or never, saw, and which was known only to those who were admitted to the inner sanctuary of his heart. There was an under-current of emotion in him which only occasionally came to the surface, as some waters run under-ground, and break out at intervals into springs. "Great as is my haste" (he adds) "I cannot refrain from mentioning your brother Daniel, some years my senior in age, and with whom I have had a most intimate and agreeable friendship from my boyhood. Tell him that I often think of him with affection, and

wish that I could see him once more before one of us 'goes hence and is no more.'* The same wish I have concerning you, but probably neither wish will be gratified.

"Your friend and kinsman,

"WILLIAM GREEN."

As Carlyle said of one of his heroes: "There were tears in this man, as well as laughter—tears with toil. We will call him a great man—great in intellect, in courage, in affection, in integrity—a most lovable man—simple, honest, spontaneous—not setting up to be great—firm granite, yet in the clefts of it green, beautiful valleys, with flowers."

In 1860 I was curious to trace the proverb, "*Vox populi, vox Dei*," to its source. Accordingly I sent the query to several Colleges, and to divers men of letters. The Professor of Latin at the University of Virginia, Lewis Minor Coleman, who soon after laid down his life for the Lost Cause; replied, "You have corked the Faculty." The President of Princeton gave it up, as did the faculties of other seats of learning. A learned Professor in a Catholic College, said I would find it in Juvenal. With this, I taunted my friend, Coleman, who ran off to the library in the rotunda, and soon returned in triumph, saying, "I knew it was not there." Professor Packard said it

* This is the only slip we ever knew him to make in a quotation, the omission of the word "seen," the true reading being "no more seen."

was one of those proverbs of unknown origin, but added that his son (now of the Baltimore Bar,) referred to a like sentiment quoted by Sir William Hamilton from Hesiod, of which, more in the sequel. Gustavus A. Myers said he would send it to the English "*Notes and Queries*," which he did, as we shall presently see. The Honorable Edward Everett, replied that the earliest use of the phrase known to him, was in William of Malmesbury. William Green replied, in May, 1860, "Amid sickness of my wife, and of myself, and divers urgent demands upon my time, I have spent several hours in vain, turning over page by page (for want of an index,) of the many volumed Port-Folio, where I thought I had seen it.

He then quoted Horace, Book ii, Ep. 1 :

"Interdum vulgus rectum videt est ubi peccat, etc.,

added Pope's imitation :

"The people's voice is odd,

It is, and it is not the voice of God."

In conclusion, he says, that "both Horace and Pope are better expositors of truth than the author of this phrase, whoever he may have been, cannot, I think, admit of a doubt."

The war ended, and the voice of the people, North and South, each believing its own to be the voice of God, drove the subject from my mind. One may fancy my surprise when, after the lapse

of nearly twenty years, during which no allusion had been made to this question by either of us. I received the following letter:

"RICHMOND, 28th May, 1879.

"*Dear Philip*,—Long since I was asked by you, or by somebody else, (I believe by you), what was the origin of '*Vox populi, vox Dei?*' meaning by the question, not *whence*, but *where* it originated. The former was obvious enough, one would be prompt to think, who had any knowledge of demagogues, but the latter, I could not then tell, because I must have forgotten (if I had read) what I probably had read. Perhaps I cannot even now trace the expression to its source, but I can carry it back to an Archbishop of Canterbury, in A. D. 1326–27. In 1827 I procured from Cincinnati, a book I had long desired, Thornhagh Gurdon's History of the High Courts of Parliament, &c., &c., London, 1763, in which I to-day read, at page 85: "In 1326, the Parliament of Westminster assumed a most exorbitant power, exhibited many articles against Edward II, and in conclusion, that he was not fit to govern; wherefore, by unanimous consent, they agreed to depose the King and elect his eldest son, Edward, to be King; and the Archbishop of Canterbury makes a sermon upon the text '*Vox populi, vox Dei*,' exhorting the people to invoke the King of Kings for the prosperity of him that they had unanimously chosen to reign over them. In the margin there is a reference to Daniel xxvii, 28. I have not the book cited, but in 'Kennett's Complete History of England,' I have 'Daniel's History of the Reign of Edward the Second,' somewhat retouched, I suspect,

and there we read, vol. i, p. 210, this account of the transaction :

"1327. After a month's stay at Hereford, the Queen returned with the Prince, and kept her Christmas at Wallingford, and her Candlemas at London, where the Parliament, being assembled, agreed to depose the King, as being unfit to govern, objecting many articles against him, and to elect his eldest son, Edward, which they did, at the great Hall at Westminster, with the universal consent of the people there present; and the Archbishop of Canterbury made a sermon upon the text, '*Vox populi, vox Dei*,' exhorting the people to pray to the King of Kings, for him whom they had chosen. A foot-note is appended."

"'This sermon was preached at his Coronation'—T. Walsingham. In one more of my books there is the following notice of the same affair. 'By what authority soever called, the Parliament met at the time appointed, January 7, 1327 (1326-27), at Westminster.' The first charge that was made there was by Adam de Orleton, Bishop of Hereford, who put the memorable question: 'Whether the King Edward, the father, or his son, Edward, should reign over them?' He was seconded by several other Bishops, and it was not long before they all agreed the son should have the government of the Kingdom, for the reasons following, which are there set forth in six detailed articles, concluding, 'And that all these things were notorious, beyond contradiction.' These articles are said to have been dictated by John de Stratford, Bishop of Winchester, Treasurer of England. They were written by his Secretary, and a public notary having put upon them his pro-

bat, they were, by common consent of Parliament, sent to the King, then a prisoner at Kenilworth.

"The committee chosen for that purpose, were the aforesaid Bishop, with (read 'and') Adam de Orleton, Bishop of Hereford, and Henry Budwash, Bishop of Lincoln, together with two Earls, four Barons, and three Knights of every county, as also some of the citizens and Burgesses from London, the Cinque Portes, and other cities and towns in England. These commissioners had a power given them to resign their homage and fealty to the King, in the name of all the rest, to give him notice of the election of his son, and to procure his voluntary (?) resignation of his Crown; or, if he refused, to give up their homages, and proceed as they thought fit. The reason of this mild proceeding, says Walsingham, was because the Queen felt a qualm of conscience about the deposition of her husband; and the young Prince, affected by this seeming concern (*ut foris apparuit*) of his mother, declared he would not accept the title against his father's will; therefore, the King's absolute resignation was thought necessary for the latter's satisfaction.' The poor King, being sufficiently worked upon, at first swooned away, and had fallen to the ground had he not been supported by the Earl of Lancaster and the Bishop of Winchester. However, coming to himself, he answered, with tears in his eyes, 'That he was very sorry he had so misbehaved himself towards his people, and asked pardon for it of all who were present; but seeing now it could not be otherwise, he returned them thanks for choosing his first-born son in his room. He then made his resignation by delivering up the

royal ensigns of Sovereignty, the Crown and Sceptre, which the commissioners had taken care to bring for that purpose; after which, one Sir William Trussel, supplying the place of Chief Justice of England, and chosen as Procurator, as ordered by the whole committee, announced their resignation (renunciation) of homage to the King, which he did in this form: 'I, William Trussel, Procurator of the Prelates, Earls and Barons, and other people in my Procuracy named, having for this full and sufficient power, do surrender and deliver up to you, Edward, King of England, before this time, the homage and fealty of the persons in my Procuracy named, in the name of them, and every one of them, for certain causes therein enumerated, and do deliver them up to you, Edward, and acquit or discharge the persons aforesaid in the best manner that the law and custom can give it, and do make this protestation in the name of all those that (they?) will not for the present be in your fealty or allegiance, nor claim or hold anything of you as King, but account you as a private person, without any manner of Royal dignity. The ceremony ended with Sir Thomas Blount, the High Steward, breaking his staff, declaring all the King's officers discharged from his service, in the same manner as if the King was actually dead.

"The Commissioners returning to Parliament with the King's coronet and the Royal ensigns (insignia), made the common people rejoice;" and presently the whole community admitted Edward, a youth of fourteen years of age, to be their King.

"After this, the Archbishop of Canterbury preached a sermon before the whole assembly. His text was

'*Vox populi, vox Dei*,' etc., exhorting his audience to pray for the King they had chosen. Thus, says an author, the lawyers found out a legal method to deprive their King of sovereignty, and the divines asserted their mighty power in calling their voice a Divine election. (Historical Observations of the Reigns of Edward I, Edward II, and Richard III. By a Post. Harrow, London: 639, 500). The Parliamentary or Constitutional History of England, London, (73, pp. 182-86. It is then added: "All this was done on the 20th of January, 1327," meaning 1326-27).

As to the lawyers, Foss, in his Biographical Dictionary of the Judges of England, examines the question whether this Trussel was ever a Chief Justice among them, and concludes in the negative. As to the text of the Archbishop, if he took it from Holy Writ at all, he took it, of course, from the Vulgate. If my copy of Cruden's Concordance (unabridged) was at home, I should probably find out satisfactorily there, under the words 'People' and 'Voice,' whether it is in the Bible or not. If there at all, it is probably in the Apochrypha. With his help, I might, perhaps, find it in my old Latin Bible, of which I showed, perhaps gave, you my written account at the Springs last summer.

"Give my love to your family, and my kindest recollections to your brother Daniel.

"Very truly your friend,

"WILLIAM GREEN.

"*Rev. P. Slaughter, D. D.*"

"VIRGINIA STATE LIBRARY,
"CAPITOL, 20TH JUNE, 1879.

[Notes for Rev. P. Slaughter, D. D.]

"Notes and Queries (English), First Series, vol. 1, p. 321. 'Can any reader give me the origin of the saying *Vox populi, vox Dei*?' *Quæstor*, Reg. Cot, *Ibid*, 370. '*Vox populi, vox Dei*—about the origin of which sayings '*Quæstor*' asks—were the words chosen by the Archbishop of Canterbury, Simon Mepham, as his text for the sermon which he preached when Edward III was called to the throne, from which the nation had pulled down his father, Edward II. This we learn from Walsingham, who says: '*Archiepiscopus vero Cantuariæ præsentis consensit electioni, ut omnes Prælati; et archiepiscopus quidem, assumpto themati Vox populi, vox Dei, sermonem facit populo, exhortari omnes ut apud regem regum intercederent pro electo.*' Tho. Walsingham, *Hist. Angl.* ed., Camden, p. 126. *Daniel Rock*."

"*Ibid*, 419. '*Vox populi, vox Dei.*'—The words '*Populi vox, vox Dei*,' stand as No. 97 among the '*Aphorismi Politici ex Ph. Cominæo*,' in a small volume in my possession, entitled '*Aphorismi Politici et Militares, &c., par Lambertum Danæum collecti, Lugduni Batavorum, CXXXIX.*' There is no reference given to book or chapter, and, judging from the manner in which the aphorisms of Thucydides and Tacitus (which I have been able to examine) are quoted, I fear it may be found that the words in question are rather a condensation of some paragraph by Des Comines, than the *ipsissima verba* that he employed. *C. Forbes, Temple*."

"*Ibid*, 492. '*Vox populi, vox Dei*.'—Your correspondent, '*Quæditor*,' asks for the origin of the saying *Vox populi, vox Dei*. Warwick, in his *Spare Minutes*, (1637,) says: 'That the voice of the common people is the voice of God, is the common voice of the people,' yet it is as full of falsehood as commonness. The cry before Pilate's judgment-seat, 'Let him be crucified,' was *vox populi*, 'the cry of all the people.' How far was it the voice of God?' *Ibi*."

[“‘Mr. G. Cornwall Lewis, in his valuable *Essay on the Influence of Authority in Matters of Opinion*, p. 172, has some very interesting remarks upon this proverb, which, in its original sense, appears to be an echo of some of the sentences in the classical writers, which attribute a divine or prophetic character to common fame or rumor.’ See pp. 172, 173, and the accompanying Notes.”]

“Vol. 3, p. 254 ‘Notices to Correspondents.—E. M. '*Vox populi, vox Dei*,' were the words chosen by Archbishop Mepham for his sermon, when Edward III was called to the throne. See ‘Notes and Queries,’ vol. 1, pp. 376, 419, 492, for further illustrations.”

"*Ibid*, 288. '*Vox populi, vox Dei*.'—Your correspondent, Daniel Rock, states these words to have been chosen by the Archbishop of Canterbury, Simon Mepham, as his text for the sermon he preached when Edward III was called to the throne; and in your Notices to Correspondents, vol. 3, p. 254, you repeat the statement. The Prelate, by whom the sermon was preached, was not Simon Mepham, but his predecessor, Walter Reynolds, who was Arch-

bishop of Canterbury, when the second Edward was deposed, and when Edward III was crowned on February 1, 1327. This Walter Reynolds died on November 16, 1327, and Simon Mepham was appointed his successor on December 11, 1327. John Toland, in his *Anglia Libera*, p. 114, has this reference to the sermon, which was preached by the Archbishop Reynolds on the occasion of the King's coronation: 'To Edward I succeeded his son, Edward II, who, growing an intolerable tyrant, was, in a parliament summoned by himself, formerly accused of misgovernment, and, on his own acknowledging the truth of this charge, solemnly deposed. When his son, Edward III, was elected with universal consent, Walter, the Archbishop of Canterbury, preached the coronation sermon, and took these words for his text: '*Vox populi, vox Dei*, the voice of the people is the voice of God'—so little did they dream in those days of the divine right of monarchy, or that all power did not originally derive from the people, for whom and by whom all governments are erected and maintained. Sir Harris Nichols, in his *Synopsis of the Peerage*, and Dugdale, in his *Monasticon*, give the name of this Archbishop as Walter Reynolds. Sir Richard Baker, in his *Chronicle*, describes him as Walter Reginald; and, in Hume's England, he is called Walter de Reynel. *St. Johns*"

"*Ibid*, 381. "*Vox populi, vox Dei* is, I find, a much older proverb in England than Edward III's reign, for whose coronation sermon it was chosen the text, not by Simon Mepham, but by Walter Reynolds, as your correspondent, *St. Johns*, rightly says. Speaking of the way in which St. Odo

yielded his consent to be Archbishop of Canterbury, *circ.* A. D. 920, William, of Malmesbury, writes: *Recogitans illud proverbium, Vox Populi vox Dei.*—*De Gestis Pont.*, lib. 1, p. 114, ed. Savile. D. Rock.

"Vol. 6, p. 185: '*Vox populi, vox Dei.*—A gentleman once used this expression in conversation with, I believe, Mr. John Wesley. He at once replied, 'No, it cannot be the voice of God, for it was *vox populi* that cried out 'Crucify him! crucify him!' *Clericus (D.)*'

"Vol. 8, p. 494: '*Vox populi, vox Dei.*—Lieber, in the last chapter of his *Civil Liberty*, treating of this *dictum*, ascribes its origin to the middle ages, acknowledging, however, that he is unable to give anything very definite. Sir William Hamilton, in his edition of the *Works* of Thomas Reid, gives the concluding words of Hesiod's *Works and Days* thus: 'The word proclaimed by the concordant voice of mankind fails not, for in man speaks God.' And to this the great philosopher adds, 'Hence the adage (?) *Vox populi, vox Dei.*' The sign of interrogation is Sir William Hamilton's, and he was right to put it, for whatever the psychological connexion between Hesiod's *dictum* and *Vox populi, vox Dei* may be, there is surely no historical. '*Vox populi, vox Dei*' is a different concept, breathing the spirit of a different age. How far back, then, can this *dictum*, in these very words, be traced? Does it, as Lieber says, originally belong to the election of bishops by the people? Or was it of Crusade origin? America begs Europe to give her facts, not speculation, and hopes that Europe will be good enough to comply with her request. Europe

has given the serious '*V. P. V. D.*' to America, so she may as well give its history to America too. *Americus.*'

"[As this Query of *Americus* contains some new illustration of the history of this phrase, we have given it insertion, although the subject has already been discussed in our columns. The writer will, however, find that the earliest known instances of the use of the saying are by William, of Malmesbury, who, speaking of Odo yielding his consent to be Archbishop of Canterbury, A. D. 920, says: '*Re-cogitans illud Proverbium, Vox Populi, Vox Dei,*' and by Walter Reynolds, Archbishop of Canterbury, who, as we learn from Walsingham, took it as his text for the sermon which he preached when Edward III was called to the throne, from which the people had pulled down Edward II. *Americus* is further referred to Mr. G. Cornewall Lewis's *Essay on the Influence of Authority in Matters of Opinion* (pp. 172, 173, and the accompanying notes), for some interesting remarks upon it. See further '*N. & Q.*' vol. 1, pp. 370, 419, 492; vol. 3, pp. 288, 381.

"Vol. 12, p. 96: '*Vox populi, vox Dei.*—Your correspondent, *Clericus (D.)*, ascribes to the celebrated John Wesley the dissentient rejoinder once made to that well-known proverb '*Vox populi, vox Dei*': 'No, it cannot be the voice of God, for it was *vox populi* that cried out 'Crucify him! crucify him!' and I have seen it elsewhere ascribed to him. It appears, however, to have had a much earlier origin, and Wesley did but quote from Arthur Warwick, whose *Spare Minutes, or Resolved Meditations and Premeditated Resolutions*, had reached a *sixth* edition in 1637. I am unable to give you the exact refer-

ence to the page where the words occur, not having the volume by me, and having omitted to make a 'note' at the time of reading the work. The words, however, are as follows: 'That *the voice of the common people is the voice of God*, is the common voice of the people, yet it is as full of falsehood as commonness. For who sees not that those rack-mouthed hounds, upon the mere scent of opinion, as freely spend their mouths in scenting water, or, like Actæon's dogs, in chasing an innocent man to death, as if they followed the chase of truth itself in a fresh scent? Who observes not that the voice of the people—yea, of that people that voiced themselves the people of God—did persecute the God of all people, with one common voice, '*He is worthy to die*'? I will not, therefore, ambitiously beg their voices for my preferment, nor weigh my worth in that uneven balance, in which a feather of opinion shall be moment enough to turn the scale, and make a light piece go current, and a current piece seem light. *John Booker.*'"

"FROM MY OWN OFFICE,

"RICHMOND, 20th June, 1879.

"*Dear Philip*,—On the foregoing pages I have extracted for you *all* the passages I could find in the first series of Notes and Queries, complete in twelve volumes. There are several other *series*, each in twelve volumes, and I think it not unlikely that some, perhaps many things, on the same subject may be contained in them, or some of them. But I could not be permitted to go wherever the volumes

were, and I would not let old Col. McRae take the trouble of bringing them all down stairs to me, and there was no general index (now left unstolen) of any series but the first. So I had to be content with what I send you. Those extracts you will find to contain a great amount of information, and *they*, with what you have already, will truly enable you to write a *very* 'readable' article on '*Vox populi, vox Dei*.'

"I was particular to copy literally, down even to the capitalizing of words, and to the punctuation; of course, as to the spelling.—Since I returned from the Capitol, I have looked again into Hume, and I find that he mentions 'Walter de Reynel, Archbishop of Canterbury,' merely as, with 'many of the Prelates,' expressing their approbation of the Queen's measures,' at a certain period, before the dethronement of the King, Edward the Second. Hist. Engl., vol. 2, p. 91, ed. Philad., 1795. I had before looked into him, and all the other historians of England, in my possession, without finding in them any passage about the Archbishop's sermon, except those noticed in my last letter to you.

"The passage from Warwick's *Spare Minutes*, which closes the whole collection, is a very fine one; but both he and Wesley, who followed him, were mistaken in their application of Scripture, to prove that the voice of the people is not the voice of God, if they maintained, (as I suppose they did,) with the orthodox part of Christendom, that man could not be saved consistently with the Divine decrees unless Christ were crucified, and crucified at that particular time, and in that precise manner. For if God preordained this, the

voice of the people, "Crucify Him, crucify Him," was in exact accord with the will and purpose of God, and so might be called the voice of God, more especially if their outcries are supposed to have had any influence in bringing about the event, which, however, cannot be orthodoxly supposed, if God was determined the event should absolutely take place, then and there, and in that precise mode, which the prophets had foretold; but a truce with Theology.

"I am glad you have been appointed to write the history of the Church in Virginia. You cannot, of course, complete it, unless Mrs. Cole's speech, that the Slaughter's never die, be verified as to you for one. I am sure you will not make the mistake of another gentleman, whose single volume I have. He (Dr. Jarvis) beginning at the beginning, investigated the time of Christ's birth, and had time to produce but one volume (about the most learned work I ever saw) to prove that Christ was not born within some years of the commencement of the Christian era, nor within some months of the Christian's Christmas.

"I have dosed you sufficiently, so farewell. We both send our love to you and yours.

"Your old friend and kinsman,

"WILLIAM GREEN.

"*Rev. P. Slaughter, D. D.*"

THE GENESIS

OF CERTAIN COUNTIES IN VIRGINIA, FROM CITIES
OR TOWNS OF THE SAME NAME.

BY WILLIAM GREEN, LL.D.

This is the Historical Tract spoken of in the foregoing Reminiscences, as having been presented to the present writer by Mr. Green, to be used at discretion. He called it "Some Remarks upon Certain Counties, &c." I have taken the liberty of naming it "The Genesis of Certain Counties from Cities (Towns) of the same name." It is a fair sample of his method of working a historical mine. He was not content with superficial researches. He sunk his shafts to the bottom, fortifying his way with props of proof—following every vein he opened, so long as it yielded a grain of gold, and then moulding the materials into monuments of patient labour, illustrated with a wealth of learning. This, like other works of Mr. Green, was left unfinished. The present writer was tempted, at first thought, to give it the finishing touch, by endeavouring to realize Mr. Green's conception, as indicated on its first page. But sober, second thought, made him shrink from such a "lame and impotent

conclusion." It would have been as rash and as unsatisfactory as the work of clumsy modern artist, who should undertake to give the finishing touch to a picture, or a statue of one of the grand Old Masters. One would not provoke derision by not heeding the Canon of Horace, against attaching the neck of a horse to a human head, or making the figure of a beautiful woman terminate in the extremities of a monster: "*Ut nec pes nec caput uni reddatur formæ.*" (Horace, Epistles, b. 2nd, ch. 3rd.)

Remarks on Some Localities Distinguished (more or less) in Virginian Annals During a Quarter of a Century, from the First Landing of English Colonists at James Town.

The 13th of May, 1607, has been generally regarded by writers of all sorts as the date of the first eventually permanent settlement of the English on the Continent of America; conformably to which received opinion, that day was celebrated in 1807 as the second centenary anniversary of the settlement of Virginia, by a "jubilee" at James Town. 2 *Meade's Old Churches*, 420-425. A similar celebration of (I believe) the fifth semi-centennial anniversary has happened since I lived in Richmond, but on a smaller scale, of which I have printed accounts somewhere among my books and papers,

which I shall not now take time to find. But the most accurately learned writer on Virginian antiquities that has yet appeared, Mr. Charles Deane, of Cambridge, Mass., has recently pointed attention to the fact that "the settlement or 'landing' at Jamestown was *begun*, according to Percy"—doubtless the most reliable authority—"on the 14th of May"—the place having been finally *chosen* the day before. *Newes from Virginia* (Captain John Smith's True Relation), *edit.* 1866, pp. 4-5, note, citing "Percy, in Purchas, vol. 4, pp. 1687, 1688."

"In 1634 the country" was "divided into eight shires," the names whereof, first given, were "James City, Henrico, Charles City, Elizabeth City, Warwick River, Warrosquyoake, Charles River," and "Accawmack," (1 *Hen. Stat.*, 224; 2 *Burk's Hist. Virg.*, 43), whereof "Warrosquyoake" was changed into "Isle of Wight" in 1637, (1 *Hen. Stat.*, 577,) and "Warwick River" into "County of Warwick," "Charles River" into "County of York," and "Accawmack (Achowmack)" into "County of Northampton," in 1642-3. 1 *Hen. Stat.*, 249. The last-mentioned county was at the same time divided into two parishes (*ibid*), and afterwards into two counties, the southernmost of which retained the name of Northampton, while the northernmost took the name (again), which it has ever since retained, of Accomac. This division happened, it is said, in 1672, (*Mercer's Abr. Virg. Laws*, 61; *Martin's Virg. Gaz.*, 111; *Howe's Historic. Collect.*

Virg., 163, 404,) but I have not found original authority for the statement, nor the act of Assembly by which (as it is said) the division was made. See 2 *Hen. Stat.*, 13-14, 66, 362, 397. And the fact appears authentically, *now*, that courts were held in "Accomack County" so long before as 16th November and 18th December, 1665, and 17th January, 1665-'6. *Campb. Hist. Virg.*, 261-262. It is also stated (*ibid*) that "on the 10th day of November, 1663, the County Court of Accomac" made a certain order for summoning the people "to come together and arm themselves for defence against any that might invade them." Bishop Meade says the County of Accomac was founded in 1662, probably from information which the clerk's office of the county furnished. *Old Churches, &c., of Virginia*, vol. 1, p. 257. In the session that began 23d March, 1661-'2, there was an act passed concerning the County of Northampton, (2 *Hen. Stat.*, 122,) which, in a subsequent act passed at the session that began 10th September, 1663, is recited as concerning the Counties of Northampton and Accomac. Of course, the division had been made in the interim. 2 *Hen. Stat.*, 186. There had been an intermediate session, commencing on the 2d or the 23d (accounts vary) of December, 1662, (2 *Hen. Stat.*, 163-179; see *ibid*, 180), but I cannot find any statute for making the division.

But for this circumstance, I should have thought, very confidently, that the first establishment of shires must have been by act of assembly; nor

would it have been a serious difficulty that we find no trace of an assembly held at *that* time. For not to notice the assembly held in July-August, 1619, whose proceedings, long supposed to be lost, have only been recently brought to light; and the assemblies held in May, 1620, and in November-December, 1621, mentioned 1 *Hen. Stat.*, 119, *Stith* 182, *Campb.*, 142, 1 *Burk*, 228, whose proceedings have not been handed down to us in print; it is certain that there were numerous later sessions at periods when it is commonly supposed there were none. Thus, in 1 *Hen. Stat.*, 226, 229, acts are recited of a session in 1636; *ibid*, 227, an act is recited of a session in 1637; *ibid*, 229, 274, 316, acts are recited of a session that began 21st October, 1639; *ibid*, 284, 294, 319, 332, 333, acts are recited of a session 1st March, 1643-4; and *ibid*, 363, an act is recited of a session that began 12th March, 1651-2; of all which sessions the several enactments are not otherwise preserved; at least, not known to be so.

By whatever authority shires were established in 1634, it is certain that previously, no mention occurs of them, but localities are mentioned for all public purposes, as cities, towns, hundreds, necks of land, plantations, either by that term, or some other, tantamount, as gift, choice, or the like. And what I propose in the sequel of this paper, is to identify (so far as my information will enable me) those places which were represented in

the General Assembly prior to 1634, or which have some other special importance attached to them.

Stith says (p. 160): "About the latter end of June," 1619, Sir George Yeardly, their Governor, "called the first General Assembly that was ever held in Virginia. Counties were not yet laid off, but they elected their representatives by townships, so that the *burroughs* of James Town, Henrico, Bermuda Hundred, and the rest, each sent their members to the Assembly." To which he subjoins: "I can nowhere find, among the records now extant, any account of the particulars that passed." And afterwards he says (p. 1617): "This summer [1619] they laid off four new corporations, which increased the number of their *burroughs*, that had right to send members to the Assembly, to eleven in each." In which paragraph are *several* mistakes.

A contemporaneous report of the proceedings of that first Assembly has been discovered and published, from a copy furnished by Mr. Bancroft, in *Coll. N. Y. Hist. Soc.*, 2d ser., vol. 3, and in pamphlet, which is abstracted in *Campb. Hist. Virg.*, 139-142, and more concisely in 1 *Bancr. Hist. U. S.*, 17th edit., 154-156, and a MS. copy made for the State of Virginia, is contained in 1 *McDonald Papers*, 5-42. This is, upon the whole, the most correct copy—proved to be such from internal evidence—and in my remarks I shall follow it.

Eleven places had in this first Assembly two

burgesses from each, which places are in the fore-cited accounts, severally named as follows: (1.) James Citty; (2.) Charles Citty; (3.) City of Henricus; (4.) Kiccowtan; (5.) Martin Brandon, Captaine John Martin's Plantation; (6.) Smythe's Hundred; (7.) Martin's Hundred; (8.) Argal's Guifte; (9.) Flowerdieu Hundred; (10.) Captaine Lawne's Plantation; (11.) Captaine Warde's Plantation. I shall notice them in their order.

1. "James Citty." The site of this place, considered as a town merely, is abundantly well known. The name, however, spread beyond the town, and even beyond the island (so-called) on which it stood, and at length became, as we have seen, the name of a county. In this, its greatest latitude of meaning, it extended on the north side of James River, from the mouth of the Chickahominy up that stream, indefinitely so far as I can discover, and from it and the James River, towards what was afterwards called York River, without reaching anywhere the latter river, from which it was separated by the county called at first Charles River, afterwards York; the boundary between these counties, at first established, I have not been able to discover; but, whatever it was, the county of James City followed it eastwardly, till it reached the western boundary of Warwick River Shire, afterwards Warwick County, which boundary was established in 1642-3 (1 *Hen. Stat.*, 250,) as being "from the mouth of Keiths [after-

wards called Skisser] Creek, up along the lower side [thereof to] the head of it, including all the dividant of Mr. Thomas Harwood, provided it prejudice not the present bounds of James City County." And on the south side of James River it extended from the western boundary of Warrosquoake Shire, afterwards Isle of Wight County, up the James River to the eastern boundary of Charles City County, on that side of the James River, and southwardly between those boundaries an indefinite distance; the said boundaries being, of Isle of Wight, Lawne's Creek, (1 *Hen. Stat.*, 247,) and, of Charles City, the little stream (whose name I cannot discover*) that separates towards the north the counties of Surry and Prince George, the one formed from James City County in 1652, as it is commonly said, (*Merc. Abr. Virg. Laws*, 62; *Martin's Virg. Gaz.*, 286; *Howe's Historic. Coll. Virg.*, 486; see 1 *Hen. Stat.*, 373,) the other formed from Charles City County in 1702. 3 *Hen. Stat.*, 223; see *ibid*,

*"Whose name I cannot discover." This I wrote at a late hour last night, with no helps but such as my own library would afford, including maps, and among them quite a large one of Virginia, provided by the State. But this morning I have been at the State Library, and have there discovered what I could not, otherwise. On the largest map of the State the stream is called "Upper Chippoaks Creek." But in a "topographical description of the County of Prince George, in Virginia," 1793, by Rev. John Jones Spooner, published in *Coll. Mass. Historic. Soc.*, 1st series, vol. iii, p. 85, it is called "Upper Chippoak Creek." The difference, perhaps, is a mere typographical mistake. *Quære?* How is it named in the survey of James River by the United States (Coast Survey?)

5th October, 1869.

217. In 1654 it was "ordered that the upper part of York County should be a distinct County, called New Kent, from the west side of Scimino Creek to the heads of Pomunkey and Mattaponie river," (1 *Hen. Stat.*, 388;) and in November, 1766, it was enacted, that "all that part of New Kent County, which lies on the lower side of the bounds hereafter described, that is to say, beginning at the mouth of Diascum Creek, on Chickahominy River, thence up the said creek to the mouth of John Blair, Esquire, his mill swamp, thence up the said swamp to the mill, thence up the mill pond to the head thereof, thence up that water course to a marked red oak, at Isaac Goddin's spring, near the said Goddin's house, thence eastwardly to a marked persimmon, at the head of a branch near the main road, on the lower side of Goddin's house, thence to a rock near James Hockaday's spring, thence down the said spring branch to Russell's mill, thence down the mill swamp to Ware's Creek, and then[ce] down the said creek to York River," should be "added to, and made part of, James City County; and that all that part of the said county of James City which" lay "on the upper side of the bounds" so "described," should be "added to, and made part of, New Kent County." 8 *Hen. Stat.*, 209. So that now James City County had got a definite boundary westward; and from the time that act took effect, to wit, 1st May, 1767, it extended, in its upper part, from the

Chickahominy to the York River, and fronting upon the latter from the mouth of Ware's Creek to that of Scimino Creek. Williamsburg was built partly within this county and partly within York County; and, in 1769, the boundary between the two counties was defined, within the limits of that city, by statute; and, during the same session of assembly, part of York County, within the city, was taken from it and added to James City County, likewise by statute. 8 *Hen. Stat.*, 405-6, 419-420.

From the time shires or counties were formed, all the burgesses or delegates from them were elected for the whole of each several shire or county, respectively, till the session of March, 1660-'61, when it was provided that "James Citty [town], being the metropolis of the country," should "have the privilege to elect a burgesse for themselves," not as part of the delegation to which the county was entitled, but additionally thereto, "and every county that will lay out one hundred acres of land, and people *this* with one hundred tithable persons, *that* place" should "enjoy the like liberty and priviledge." 2 *Hen. Stat.*, 20; see *ibid.*, 106, 196-7, 249, 272-3, 282, 362; 3 *Hen. Stat.*, 414. This "privilege" was expressly continued to James Town, or City, after it had ceased to be the seat of government, (3 *Hen. Stat.*, 236.) or in any sense the "metropolis." 7 *Hen. Stat.*, 518; 8 *Hen. Stat.*, 306. And it was not taken away till the formation of our Constitution, 29th June, 1776, at the

breaking out of the Revolution. 9 *Hen. Stat.*, 114. Meanwhile a like privilege had been granted to the College of William and Mary, by the charter thereof, dated 8th February, 1692-3, (s. 18, p. 24, edit. 1817, p. 19, edit. 1855,) which had afterwards been confirmed by statute, (3 *Hen. Stat.*, 241; 7 *Hen. Stat.*, 526, 529-530; 8 *Hen. Stat.*, 312, 313, 317,) and remained unaltered till it was dropped at the same time and by the same act with the representation of James Town, (9 *Hen. Stat.*, 114,) and like privilege had also been granted to the city of Williamsburg by charter, bearing date 28th July, 8 Geo. I, (A. D. 1722,) confirmed by statute in the session of May, 1742, (5 *Hen. Stat.*, 205,) and to the town of Norfolk by charter, bearing date 15th September, 10 Geo. II, (A. D. 1736,) confirmed during the session of Assembly *then* in progress, (4 *Hen. Stat.*, 541, 542,) which privilege to those constituencies remained unaltered till the Revolution, and was then continued to them, (7 *Hen. Stat.*, 529-530; 8 *Hen. Stat.*, 397; 9 *Hen. Stat.*, 114; *R. C. 1819*, c. iv, s. 5,) till our Constitution of 1830, which took it away from Williamsburg (by giving only one delegate to that city conjointly with the counties of James City and York), but still continued it to Norfolk. *Virg. Const. 1830*, art. iii, sec. 2. But *before* the formation of shires or counties, many different places, in *each* of what were afterwards such (shires or counties), sent their respective burgesses, as we shall have occasion to see.

2. "Charles City." This, considered as the name of a town, is in remarkable contrast to "James City," for, whereas that (the latter) denotes a locality most notorious, this (the former) denotes one very little (if at all) known to well-informed persons of the present day. Bishop Meade, in one place, says "the East India School was to be established at Charles City, a place *somewhere* in what *is* the County of Charles City, and probably not far from Henrico City," and, in another place, "we read of Westover Hundred, and Weynoake Hundred, and Charles City Hundred, as early settlements on James River, within its bounds [*i. e.*, the bounds of Charles City County], and of the destruction, or great injury of them by the Indians in the great massacre of 1622. We read of a school being established, or about to be established, at Charles City Hundred, in aid of the proposed College at Henrico, without being able to ascertain the location of it, though we presume it was somewhere on the river." *Old Churches, &c., of Virg.*, vol. 1, pp. 85, 314. So that *he* did not venture to locate it at any particular place; though he ventures to suggest that it was within the *present* bounds of Charles City County, *therefore* on the north side of James River; and in this, I think, it is demonstrable that he was mistaken. I believe I can prove the precise spot where it was, or was to be, though no writer upon Virginia, that I remember to have met with, has ever indicated it, except whoever was the com-

piler of certain "Particulars of Land in Virginia," which I shall have occasion to mention in the sequel more particularly.

Stith, under date of A. D. 1621, says: "Mr. Copland, chaplain to the Royal James, an East India ship just returned to England, by his example and persuasion prevailed on the ship's company to contribute seventy pounds, towards building a church or a free school in Virginia; and an unknown person gave thirty pounds more, to make the benefaction an hundred; to which twenty-five pounds were afterwards added by another unknown person. It was therefore determined to build a school at Charles City, (which was judged the most commodious place, and most convenient to all parts of the colony,) by the name of the East India Schools; and the Company allotted, for the maintenance of the master and usher a thousand acres of land, with five servants and an overseer. This school was to be collegiate, and to have dependence upon the College at Henrico, into which, as soon as the College was sufficiently endowed, and capable to receive them, the scholars were to be admitted and advanced, according to their deserts and proficiency in learning. Mr. Copland was also presented with the freedom of the Company, and with three hundred acres of land in Virginia. And carpenters were accordingly sent over for this purpose early the next year." *Stith*, 204; see *ibid*, 218, 229. Campbell says: "Charles

City County [not then in existence] was selected as the *site* of it, and it was to be called the East India School, and to be dependent upon the College at Henrico. *Hist. Virg.*, 158. Beverley, Burk, and Howison, are silent on the subject. So (as might be expected) is Smith, Grahame, and Chalmers, Bancroft, and Hildreth, ditto, ditto. So, too, Marshall, (*Life of Washington*, 1st edit. Intro.)

When we consider that all travelling at that time in the colony was on foot or by water (in vessels and boats of different sizes and kinds), and that this was likely to be the case during many years, it will occur readily that no spot could better answer the conditions of the site mentioned by Stith, than the mouth of the Appomattox; and there, on the lower side of that river at its junction with the James, was the site of the small town, or hamlet rather, called Charles City. This I shall prove more conveniently hereafter; at present I shall assume it.

In the *pamphlet* of Captain Nathaniel Butler, (if indeed it was ever *printed*,) entitled "The Unmasked Face of Our Colony in Virginia, as it was in the Winter 1622," it was said (in substance, as represented by Stith,) "that he found the ancient plantations of Henrico and Charles City quite deserted, and abandoned to the spoil of the Indians, who not only burnt the houses (said to be once the best in the country), but fell upon their stocks of all kinds, and killed and destroyed them." *Stith*,

267-8, 269, 1st edit., (277-8, 279, 2d edit.) To which the Governor and Council and Burgesses, in their session of February-March, 1623-4, gave, under their hands, this answer: that he was never at either of those places, by some score of miles, "having never been higher up the river than the territories of James City"; that "Henrico was quitted in Sir Thomas Smith's time, only the church and one [other] house remaining;" and that "Charles City, so much spoken of, contained but six houses." *Stith*, 307-8, 311, 312. Nevertheless, it gave a name to the spot, which has ever since been called City Point, because *there*, the "City," so-called, had been, or was to be; and (as in the case of James City) the name spread beyond that locality, so as to comprehend lands on both sides of the river (James); and at last, in 1634, became the name of a shire or county. *Thus* applied, it extended from the point where the Chickahominy empties into the James, up stream, between both those rivers, until it reached the boundary of Henrico, on the northern side of the James; and on the southern side of it, from the mouth of the Appomattox down the James, until it reached the Creek heretofore mentioned, which separates Prince George from Surry, with an undefined extent, from that frontage, in a southward direction, All this part of it (south of the James) was, as we have before seen, taken from it in 1705, and erected into a new county, called after Prince George (of Denmark), husband of the

Queen (Anne,) who was then upon the throne. Its boundaries on the northern side of the James have remained unaltered, except that on the side next to Henrico the county was enlarged in 1720.

4 *Hen. Stat.*, 94.

3. "City of Henricus." This is English for Henricopolis, by which name I do not doubt that the place was first named, though I have for years kept a sharp look out for any original authority to that effect, but in vain, unless this very passage, is such authority. The notion that it was at first called Henricopolis is adopted by Oldmixon, in his *British Empire in America*, 2nd edit. Lond. 1741, vol. 1, pp. 365, 406; by Bishop Meade, in his *Old Churches of Virginia*, vol. 1, pp. 124, 137; and by Mr. Deane, (*Proceed. Am. Antiq. Soc.*, 1864, p. 61, n.) and it is the most natural (perhaps *only* natural) way of accounting for the name Henrico. The *five* syllables were too much for the patience of those who had occasion to speak of the place, and according they dropped the "polis" *quite early*; for Hamor and Rolfe and Smith (after them) speak of it always as Henrico. By the way, it may be mentioned that in Mr. Sainsbury's "*Calendar of State Papers, Colonial Series, 1574-1660*", p. 7, under date of "1607, August 18," there is an abstract of a letter (which I have not seen elsewhere noticed) from Dudley Carleton to John Chamberlayne, in which abstract we have these words: "A Dutchman writes in latin from the

new town in Virginia, *Jacobopolis*." Had that name been given to James Town, which, at first, was called James Fort, (as is mentioned in the same letter from Carleton, and in Archer's (?) *Relation of the Discovery of our River from James Forte into the Maine*, 4 *ARCHAEOLOGIA AMERICANA*, 40, 41;) in a short time popular use would have abridged it in like manner, and then we should have had *Jacobo*. To confirm which, yet further, I will mention, that from 1823 to 1856, I resided in Culpeper County, where is a small town, very frequently spoken of there, which hardly ever was called in my hearing anything but Jefferson, and so it is set down on the smaller map of Virginia published by the State, (as it is termed to distinguish it from one much larger, though the smaller is itself quite a large map,) the true name being *Jeffersonton*, as it is given (correctly) in *Mart. Virg. Gaz.* 158, and *Howe's Histor. Coll. Virg.* 237; and "Jefferson" being the name of a town in our county of Powhatan, created by Act of Assembly passed 21st December, 1794, *Sess. Acts*, ch. 41; 1 *Sheph. Stat.*, 319. The site of this "city of Henricus," *alias* "Henrico," is too well known to all persons even moderately conversant with our early history, for me to state it here, though Mr. Bancroft, with strange inattention, (it surely could not have been ignorance *in him*,) has said that it was where Richmond now stands! 1 *Bancr. Hist. Un. St.*, 17th edit. 153; *Introd.* (written and signed by

him) to printed copy of "Report," mentioned *ante* 4-5, (in which introduction, by the way, there are other most remarkable oversights and blunders, or at least one, which I now remember). As "James City" and "Charles City," so "Henrico" came soon to signify much more than the mere town or site for it, and extended over a large tract of country, till it, too, became the name of an original shire or county formed in 1634, at which time it took in, on the north side of James river, all the land westward from Charles City, between that river and the Chickahominy, and still further west along the James till Goochland was created from it in 1727, (4 *Hen. Stat.*, 240,) and, on the south side of James river, all the land westward from the Appomattox (which divided it on that side, originally from Charles City, afterwards from Prince George,) till 1727, when its more western part was made part of Goochland, and 1748, when the portion of it left between Goochland and the Appomattox was formed into the County of Chesterfield. 6 *Hen. Stat.*, 212, 214; 9 *Hen. Stat.*, 322; *Howe's Histor. Collec. Virg.*, 240, 470, 229. I shall hereafter recur to the subject of Henrico.

4. "Kiccowtan." This (spelled in very many various ways) was originally the name of an Indian village, first seen by the colonists on the 30th of April, 1607, a little distance from Cape Comfort or Point Comfort, (now called Old Point Comfort,) in the direction towards the site where afterwards stood James Town. *Newes from Virginia*, edit. 1866, p. 4,

note, citing 4 *Furchas*, 1687-8. It was afterwards visited frequently by the (red and white) Virginians, even before 1610, in which year, according to Rev. Hugh Jones, "they sent out" a settlement "to Kiquotan." *Present State of Virginia*, Lond. 1724, (reprinted N. Y. 1865,) p. 22. See also *Bev. Hist. Virg.*, 23, edit. Richm. 1855. Doubtless this "settlement" was what Stith describes in the following passage, under date of 1610: "In the meanwhile," between 9th June, 1610, and 28th March, 1611, "the Lord Delawarr built two forts at Kicquotan, and called one Fort Henry, the other Fort Charles. They stood on a pleasant plain, near a little river, which they named Southampton river, in a wholesome air, having plenty of springs, and commanding a large circuit of ground, which contained wood, pasture, and marsh, with fit places for vines, corn, and gardens." *Stith*, 120. Hamor, in 1614, mentions both the same forts, by the same names, in two passages of his *True Discourse*, (pp. 26, 33,) as being "upon Kecoughtan." And Rolfe, in his letter to the King, written in England, within a year after May, 1616, as appears from internal evidence, (which letter is printed, from a MS. copy, in 5 *South. Lit. Mess.*, 401-406, and reprinted in 1 *Virg. Histor. Reg.*, 101-113,) says: "The places which are now possessed and inhabited are sixe: 1. Henrico and the lymites; 2. Bermude Nether, [and] West & Shirley, Hundreds, members belonging to ye Bermuda Towne, a place so called

there, by reason of the strength of the situation, were it indifferently fortified; 4. James Towne; 5. Kequoghtan; 6. Dale's Gift." So that, at that time, some three years before the meeting of the first General Assembly, the whites had *probably* crowded the natives out from Kiccowtan, as it seems *certain* they had by the time of that meeting. At which (Assembly), divers petitions were made to the Treasurer, Council, and Company (in England), whereof "the sixte and laste" was, "that they" would "be pleased to change the savage name of *Kiccowtan*, and to give that *incorporation* a newe name." 1 *McDon. Pap.*, 16. And I think there is demonstrative proof that this change was authoritatively made within a short time thereafter, and that the place, by which I mean *site* of the Indian village aforesaid, was renamed *Elizabeth City*, not after Queen Elizabeth of England, but after King James's daughter, the Princess Elizabeth, who, on Valentine's Day, 14th February, 1612-1613, had married Frederick, elector palatine, (*Court and Times of James the First*, vol. i, pp. 224-226; *Aik. Court of James the First*, vol. i, pp. 354-357, ed. Bost., 1622; *Ling. Hist. Eng.*, vol. ix, pp. 86-87, ed. Philad., 1827,) and who was afterwards known in history as the "unfortunate" Queen of Bohemia, (*Lodge's Portraits*, vol. v, pp. 127-137, Bohn's edit., 1850; *Grang. Biogr. Hist. Engl.*, vol. i, pp. 316-318, 2d ed., 1775). But nevertheless the first name, though not afterwards used as the *legal* designation, was long continued as

the *popular* designation, and often employed by writers on Virginian affairs—a thing by no means uncommon as to places yet existing and flourishing in this State and elsewhere. As one argument of this (change of name), besides the positive proof I shall adduce presently, the question is almost conclusive: If Elizabeth City (the town) was not here, *where* was it? To which nothing I have ever seen furnishes any material for an answer.

It is curious: one town (the first) in Virginia, was called after King James; another (the second of the colonists' building) was called after his son Henry, then Prince of Wales; another (established soon after) was called after his second son, Charles, afterwards King Charles the First; and another (the next *possessed* by them, perhaps,) was called after his daughter, the princess first named: *all* of them considered, at the time, to have been *most eligibly* located, and to promise *fairest* for long and prosperous continuance; and now *scarce a vestige* of any of them remains! The name of Elizabeth City, however, like the names, James City, Henrico, and Charles City (1 *Hen. Stat.*, 224; 2 *Burk*, 43), first spread over a large surrounding country, and then became the name of a shire or county, the boundaries of which have undergone so little mutation that it seems scarce necessary to notice them at all. From the first it was bounded, landward, by the counties of Warwick River, afterwards Warwick, and Charles River, afterwards York; and its limits

have never been altered, unless when the boundary between it and Warwick was *settled*, in 1642-3. 1 *Hen. Stat.*, 250. I shall recur hereafter to the subject of the precise site of the *town* so called.

Beverley, who was long and much conversant with the records of the Secretary's office in Virginia, writing of the year 1620, says: "This year they bounded the corporations (as they called them): but there does not remain among the records any one grant of these corporations. There is entered a testimony of Governor Argall, concerning the bounds of the corporation of James City, declaring his knowledge thereof; and this is [in] one of the new transcribed books of record [destroyed in the conflagration of 3d April, 1865]. But there is not to be found one word of the charter or patent itself of this corporation. Then, also, they apportioned and laid out lands in several allotments, viz.: to the Company in several places, to the Governor, to a College, to glebes, and to several particular persons; many new settlements were made *in* James and York rivers," not meaning in the water, nor on islands, but in the district of country bordering on them—just as, in 1634, they called one *shire* Warwick River, and another Charles River. *Bev. Hist. Virg.*, 37, ed. Richm., 1855.

In *Sainsbury's Calendar* (before quoted), pp. 80-81, there is abstracted, as No. 10, and it is said that No. 11 is a copy of the same letter, dated 17th May, 1626, from the Governor (Sir F. Wyatt), and Council

of Virginia, to the Privy Council, inclosing "a particular of all the lands granted, by patent or otherwise"; which enclosed paper, headed "Particulars of land in Virginia;" is copied in 1 *McDon. Pap.*, 307-317; and, from comparison, it appears a somewhat less perfect copy of the same paper in 1 *Burk's Hist.*, 331-339. Therein the lands granted or appropriated are set down under four principal heads: (1.) "The Corporation of Henrico"; (2.) "The Corporation of Charles Cittie"; (3.) "The Corporation of James Cittie"; (4.) "The Corporation of Elizabeth Cittie"; after which is mentioned, very briefly, (5). "The Eastern Shore, over the Bay"; concerning which, after mentioning by name only three persons as having lands there, this note is added: "Certain others have planted there, but noe pattendes have been graunted them; the Companie's and the Secretarie's tenaunts were alsoe there seated, but noe land ordered to be laid out for them, *as in the other 4 corporations.*" This list alone, of everything I have seen, enables me to determine the precise locality of Charles City (that is, *town*), and of Elizabeth City (that is, *town*), in the modern sense of the word *city*.

As to the former: Under the head of each "corporation" there are in the list subordinate heads, and one of these, under the head "The Corporation of Charles Cittie," is as follows: "Upon Appomatucke River," 1 *McDon. Pap.*, 309, or "Upon Apomatuck River," 1 *Burk's Hist.*, 333, under which we read:

"Here is land laid out for Charles Cittie and the comon land." 1 *McDon. Pap.*, 310; 1 *Burk's Hist.*, 333. It is incredible that this can have been anywhere but at the mouth of the river; but it does not *per se* determine on which side of the river, at its mouth, this land for a *common* (annexed to the city), and the site of the city itself was. That is demonstrated various ways. The first and most obvious is, that the land on the James *above* the Appomattox was in the corporation (afterwards county) of Henrico, not Charles City. But another, which I state at large for the light that statement sheds on other subjects, is this: Soon after Sir Thomas Dale had laid the foundations of Henricopolis, on what was afterwards called Farrar's Island, though really not an island, but a peninsula, celebrated of old (but much more *of late*) for its Dutch Gap, he took from the Appomattock Indians their town, "about Christmas" (1611), says Stith; who adds: "This town stood at the mouth of the river [Appomattox], and was accounted but five miles, by land, from Henrico. And Sir Thomas, considering how convenient it would be to the English, resolved to possess and seat it, and at the instant, called it New Bermudas." *Stith*, 124-125. The rest of the story I prefer to tell in the words of Hamor, who was Stith's authority as to this part of his history, (*Stith*, 133), and who, after noticing what he calls the town of Henrico, and the twelve English miles of ground on the opposite side of the river, impaled for the use of that town,

and called Coxendale (see list of errata at the end of Hamor's volume), says: "I proceed to our next and most hopeful habitation, whether we respect commodity or security (which we principally aime at) against foreigne designes and invasions; I meane the Bermuda Citty, *begun* about Christmas *last*," (Hamor wrote in 1614, and after the month of June in that year), "which, because it is the nearest adjoyning to Henrico, though the last undertaken, showed it pertinent to handle in the next place. This towne, *or plantation*, is seated, by land, some 5 miles from Henrico, by water fourteen, being, *the year before*, the habitation of the Appamatucks (to revenge the trecherous injurie of those people done unto us, taken from them, besides all their corne, *the somer* [summer, misprinted "former," see list of errata at the end of Hamor's volume, where "p. 21, l. 25," should be p. 31, l. 25,] *before*, without the losse of any, save onely some few of those Indians pretending our hurt;) at what time Sir Thomas Dale, being himself upon that service, and duly considering how commodious a habitation and seat it might be for us, tooke resolution to possesse and plant it, and at that very instant gave it the name of the New Bermudas; whereunto he last laid out and annexed, to be belonging to the freedome and corporation for ever, many miles of champion [champain] and wood land, in severall hundreds, as the Upper and Nether Hundreds, Rochdale [called, according to Stith, in *his* time, Rocksdales] Hundred, West's Sherly [West &

Sherley] Hundred, and Digges his [Digges's] Hundred. In the Nether Hundred he first began to plant and inhabite, for that there lyeth the most convenient quantity of corne ground; and with a pale cut over from river to river, about two miles long, wee have secur[e]d some eight miles extent of ground, the most part champion [champain, *cempestris*], and exceeding good corne ground; upon which pale, and round about, upon the verge of the river in *this* hundred, halfe a mile distant from each other, are very faire houses *already* builded, besides other particular men's houses, not so few as fifty. Rochdale Hundred, by a crosse pale, well nigh four miles long, is also *already* empaled, with bordering houses all along the pale, in *which* hundred our hogges and other cattell have twenty miles circuit to graze in securely. The undertaking of the *chiefe* city [*is*] *deferred* till all their harvest be in; which once reaped, all hands shall be employed thereon; which Sir Thomas Dale purposeth, and he may with some labour effect his designs, to make an impregnable retreat against any foreign invasion, how powerful soever." *True Discourse, &c.*, 31-32.

Some two years afterwards Rolfe wrote the letter to the King, which I have before quoted, wherein among the places "*now* possessed and inhabited," below "Henrico and the lymites [thereof]," and above "James Towne," he mentions, as we have seen, *only* "Bermuda Nether Hundred" and "West and Shirley Hundred," and it was, as we shall here-

after see, the one which Stith (p. 125) calls simply "Shirley Hundred," *and these* as "members belonging to ye Bermuda *Towne*, a place *so-called* there, by reason of the strength of the *situation*, *were it* indifferently fortified." The rest of the huudreds mentioned by Hamor he does not notice at all, and, in giving afterwards particular descriptions of the six places *he* mentions, he says: "At Bermuda Nether Hundred, (seated on the south side of the river, crossing it and going by land, five myles lower than Henrico, by water [fourteen],) are one hundred and nineteen [persons], which seate conteyneth a good circuite of ground, the river running round, so that a fall, running cross a neck of land from one parte of the river to the other, maketh it a peninsular." Bermuda Upper Hundred, whatever became of it, was doubtless intended to be *above* the *nether* hundred of that name—that is, higher up stream—and whether up the Appomattox, or up the James, or up both, is of no moment; anyway the nether hundred would be at the junction of the two rivers, where is found to this day the place which has long been called (simply) Bermuda Hundred (without an affix of either Upper or Nether). In the corner of Henrico formerly, Chesterfield since, "New Bermuda," says Bishop Meade, "in what is now Chesterfield County, in the angle formed by James river and the Appomattox, and which afterwards assumed and still retains the name of Bermuda Hundred." *Old Churches, &c., of Virg.*, vol. i, p. 76. See also *ibid*

125; 3 *Hen. Stat.*, 6; *Proceed. Am. Antiq. Soc.* 1864, pp. 63-64.

About three years later was held the first General Assembly in Virginia, to which, as we have seen, Stith says "the burroughs of James Town, Henrico, *Bermuda Hundred*, and the rest, each sent their members," not naming Charles City, whereas the contemporaneous report, as we have seen, says that Charles City sent two burgesses, not naming at all Bermuda Hundred. How shall this discrepancy be accounted for? Though more than a century has elapsed since Stith wrote, still he wrote more than a century after the times he speaks of, and in his day Bermuda Hundred was a place of note and consideration, whereas Charles City (town) had long been invisible and almost forgotten as a thing that ever existed even in name on that side of the James; but in 1619, when the Assembly met, it was in great vogue, insofar as expectation went, whence in a few years after it gave name to one of the four "corporations" that included all the settlements west of *the* Bay, and was the place designated for the East India School. Probably the persons represented by the burgesses (nominally) for Charles City lived in Bermuda Nether Hundred and other places adjoining; and certainly the fact that Appomattox river separated them from Charles City did not constitute an objection, since, many years afterwards and after that river had (in 1634) been constituted the boundary between

Charles City County and Henrico County, Bristol Parish was laid out on both sides of it from the mouth upwards, (1 *Hen. Stat.*, 251; 1 *Meade's Old Churches, &c.*, 438-439,) and in 1653 had the privilege conceded it of holding local courts of justice, "appeals lying from this court to either Henrico County or Charles City County Court," (1 *Hen. Stat.*, 376, 424,) which privilege became extinct I know not when, but probably when the next revision of the laws took place in the session of March, 1657-8. See 1 *Hen. Stat.*, 432; also *ibid.* 426. When the *town* of Charles City vanished, the *place* seems to have got the name of Charles Hundred, (*Stith*, 306, 310,) for which Bishop Meade substitutes Charles *City* Hundred, writing (doubtless) from memory. *Old Churches, &c.*, vol. i, p. 314. Besides the "Particulars of Land in Virginia," we have other lists in which the names of places, more or less conspicuous, are mentioned. In 2 *Smith's Gen. Hist.*, 75-76, ed. Richm., 1819, we have a list of those that were "slaine" in the great massacre of 22d March, 1621-2, wherein the places are named at which the murders were committed. Next, in *Sainsbury's "Calendar of State Papers, Colonial Series, 1574-1660,"* p. 57, we have abstracts of a "list of names of the living in Virginia," and "also list of names of the dead in Virginia," which, it is there suggested, were "sent by Davison to Farrar," pursuant to the promise in Davison's letter from "James City, 14th April,

1623," noticed *ibid*, 43-44, but which more probably was prepared in accordance with one point in the commission to Harvey and others, dated 24th October, 1623, noticed *ibid* 53, whose arrival in Virginia took place early in January, 1623-4, (*Stith*, 304, 1st edit.; 304-*b* 2d edit.,) since it is entered in the "*Calendar*" under date of "16th February, 1624" [*i. e.*, 1623-4], agreeing with the caption of the document (as transcribed) in *McDon. Pap.*, 45-79, to-wit, "Lists of the Livinge and Dead in Virginia, February 16th, 1623," after which we have (pp. 45-71) "A List of the Livinge," and (pp. 72-79) "A List of the Names of the Dead in Virginia Since April Last, February 16th, 1623"; in all of which, to-wit, abstracts of the two lists, and the two lists themselves, the places are named of residence and of death. Then we have a list of places represented in the General Assembly "holden on the 16th day of October, 1629," the *first* (after that of 1619) *wherein* the *places* are distinguished. 1 *Hen. Stat.*, 138-9. After which we have a like list of places represented in March, 1629-30, (1 *Hen. Stat.*, 147-149,) and in February, 1631-2, (*ibid*, 153-4,) and in September, 1632, (*ibid*, 178-9,) and in February, 1632-3, (*ibid*, 202-3,) the last session in which we have any such list prior to the formation of shires or counties. And upon those lists I make the following observations with reference to Charles City: The place of that name is mentioned in the first of them,—slaine "at Charles City, and of Captaine

Smith's men, 5"; but in neither of the next two lists, to wit: of the living, and of the dead, is there any mention of it; nor is there in the next, to wit: of places represented in Oct., 1629; nor in the next, to wit: of places represented in March, 1629-30; nor in the next, to wit: of places represented in Feb., 1631-2; nor in the next, to wit: of places represented in Sept., 1632; nor in the next, to wit: of places represented in Febr., 1632-3; *so that*, from the time of *the massacre*, it seems to have lost all its importance and distinctiveness, and of the *name* Charles City (south of the James), there has survived nothing but City Point.

As to Elizabeth City (town): In the forementioned "Particulars of Land in Virginia," we have, under the head "Corporation of Elizabeth Cittie," this item: "On the easterlie side of Southampton River there are 3,000 acres belonging to the Companie at Elizabeth Cittie, and 150 acres comon land." 1 *McDon. Pap.*, 316; 1 *Burk's Hist.*, 338, *grievously mistaken* by fault of copyist or printer. This precisely determines the site of Elizabeth City to have been on the easterly side of Southampton River, as *for a time* that stream was called, (*Stith*, 120, cited *ante* 15: "So high was the character of Southampton held in Virginia, that one of her rivers *for some time* bore his name," 1 *Meade's Old Churches, &c.*, 131;) afterwards changed to Hampton River, not by public authority, so far as I can discover, but probably from that same popular aversion to long names,

which I have before noticed. The changed (or substituted) name, Hampton, was however, recognized by the Legislature as early as its session in June, 1680. 2 *Hen. Stat.*, 472. And I shall now proceed to show, that *there* also was the site of Kiccowtan. "In the year 1667 we read of a Rev. Jeremiah Taylor, who buried a Mr. Nicholas Baker in *the new church at Kickotan*, according to a request in the will. In the same year Mr. Robert Brough, by will, requests that he may be buried in *the old church at Kickotan*. In one and the same year there were a new and an old church standing at Kickotan," says Bishop Meade, who, following Burke, supposed Kickotan to have been upon the present site of Hampton. *Old Churches, &c., of Virginia*, vol. i, p. 230; see *ibid.*, 229. But this supposition is mistaken; the site of the two places not being the same, but about a mile apart, and probably on opposite sides of the river. We have seen just now, that Elizabeth City was on the easterly side, as was also Kiccowtan, according to Captain Smith's map of Virginia, and other maps that followed his. But Hampton was built on the western side of the river. The statute of 1680, mentioned above, enacted that, in and for every county thereafter "set downe and expressed," fifty acres of land should be "purchased by the feoffers of the several counties at the costs" thereafter "set downe, and measured about, layd out, and appointed, for a towne—that is to say," *inter al.* "In Elizabeth City County, on the *west* side Hamp-

ton river, *on Mr. Thomas Jarvis's plantation*, where he now lives." Which act being suspended by the King (2 *Hen. Stat.*, 508), it was, in pursuance of the same plan, enacted at the session commencing in April, 1691, "that these severall nominated forts, wharfes, keyes, and places hereafter named and set downe be, and [they] shall be, the severall and respective forts, wharfes keyes and places constituted and appointed by the act, for the uses, intents, and purposes before named—that is to say," *int. al.* "For Elizabeth Citty county, on the *west* side of Hampton River, *on the road of Mr. William Wilson*, lately belonging unto Mr. Tho. Jarvis, deceased, *the plantation where he late lived*, and the place appointed by a former law, and severall dwelling houses and warehouses already built,"—meaning, as appears evidently from the context in respect of several other places, "and whereon several dwellings are already built, *since that former law was past.*" 3 *Hen. Stat.*, 58–59. And this statute having also been suspended (3 *Hen. Stat.*, 108–109), the subject came again before the legislature at the session commencing in October, 1705, when it was enacted "that the places hereinafter named, shall be the forts meant and intended by this act, and none other place or places whatsoever, writ. On James River, Hampton, James City, Flower de Hundred,"—meaning other places on other rivers,—and then proceeding as follows: "And be it also enacted, that at each of the said forts there be forthwith laid out by the common con-

